

SITING COMMITTEE WORKSHOP
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)	
)	
Investigating the Causes of)	
Petroleum Infrastructure)	Docket No.
Development Constraints)	04-SIT-1
)	
Re: Petroleum Infrastructure)	
Best Permitting Practices)	
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BANNING'S LANDING COMMUNITY CENTER
100 EAST WATER STREET
WILMINGTON, CALIFORNIA 90744

THURSDAY, JANUARY 27, 2005

9:30 A.M.

Reported by:
Cynthia Mizell
Contract No. 150-04-002

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

John Geesman, Presiding Member

James Boyd, Associate Member

ADVISORS PRESENT

Melissa Ann Jones

Christopher Tooker

PUBLIC ADVISER

Margret Kim

Mike Monasmith

ALSO PRESENT

Carol Coy
South Coast Air Quality Management District

Sheri Repp-Loadsman
City of Carson

David E. Wright
Pacific Energy Partners, L.P.

Tim Grabiell
Natural Resources Defense Council

James L. Schepens
Oiltanking Americas, L.P.

James Holland
Los Angeles Export Terminal

Joe Sparano
Western States Petroleum Association

Shonowa Villaloros

Sylvia Garibey
representing J.C. Marquez

ALSO PRESENT

Jane Williams
California Communities Against Toxics

Cynthia Babich
Del Amo Action Committee

Skip Baldwin
Wilmington Citizens Committee

Greg Shipley
Waste to Energy/Bio Energy Producers Association

John Schafer

Jesus Torres

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I N D E X

	Page
Proceedings	1
Introductions	1
Opening Remarks	1
Presiding Member Geesman	1
Associate Member Boyd	4
Presentations	4
Carol Coy South Coast Air Quality Management District	7
Comments/Questions	25
Sheri Repp-Loadsman City of Carson	53
Comments/Questions	55
Public Comment	62
Shonowa Villaloros	62
Sylvia Garibey representing J.C. Marquez	63
Jane Williams California Communities Against Toxics	69
Cynthia Babich Del Amo Action Committee	83
David E. Wright Pacific Energy Partners, L.P.	89,172
Tim Grabiell Natural Resources Defense Council	100
James L. Schepens Oiltanking Americas, L.P.	108

I N D E X

	Page
Public Comment - continued	
James Holland Los Angeles Export Terminal	110
Skip Baldwin Wilmington Citizens Committee	112
Greg Shipley Waste to Energy/Bio Energy Producers Association	117
John Schafer	120
Agustin Eichwald Communities for a Better Environment	123
Jesus Torres Communities for a Better Environment	134
Joe Sparano Western States Petroleum Association	139
Closing Remarks	173
Presiding Member Geesman	173
Adjournment	173
Certificate of Reporter	174

1 P R O C E E D I N G S

2 9:30 a.m.

3 PRESIDING MEMBER GEESMAN: Welcome to
4 this workshop of the California Energy
5 Commission's Facility Siting Committee. My name
6 is John Geesman. I am the Commission's Presiding
7 Member of its Facility Siting Committee. To my
8 left is Commissioner Jim Boyd, the Associate
9 Member of the Facility Siting Committee. And to
10 my right is Melissa Jones, my staff assistant.

11 We're going to conduct a workshop today
12 on what is perhaps the most daunting challenge
13 facing our transportation energy problems in
14 California. And that is the rapidly evolving
15 change in the way in which we provide gasoline and
16 diesel to keep California cars and trucks rolling.

17 Since the late 1990s we have evolved
18 very quickly into an importer of refined products.
19 That means that while our refineries continue to
20 process crude, increasingly they are turning to
21 the import of refined products, specifically
22 gasoline and diesel, to satisfy the demands of the
23 customers.

24 The current petroleum infrastructure
25 system is not well designed to meet that changing

1 set of requirements. And as a consequence,
2 changes to that existing system are necessary.

3 The Energy Commission identified, about
4 a year and a half ago now, what we characterized
5 as dysfunctional aspects of our permitting process
6 for new infrastructure.

7 What we're attempting to address today
8 is the way in which the status quo develops and
9 processes permits for changes in petroleum
10 infrastructure, and how that addresses statewide
11 needs for gasoline and diesel.

12 It's my profound fear that if we do not
13 successfully resolve this question that there will
14 come a point where the gasoline lines become too
15 long, or the prices of fuel become too high, and
16 California state government willingly surrenders
17 its legal right to establish its own environmental
18 fuel standards. And we've got some time to
19 attempt to determine how best to address these
20 problems.

21 The Commission is extremely mindful of
22 the fact that the refineries are where the
23 refineries are. We don't expect new refineries to
24 be built in the state. The parts of the
25 infrastructure that we have identified the most

1 concern with, storage facilities, pipelines,
2 maritime facilities, need to be located within
3 some proximity of the existing refineries. That
4 directly impacts groups in our society that are
5 among the most powerless in our regulatory
6 process, and in our political process.

7 The California Energy Commission
8 identified in the mid 1990s the need for changes
9 in environmental justice policies to better
10 address those disparities. A number of other
11 state agencies, a number of other local agencies
12 share those concerns and have adopted formal
13 policies to address environmental justice.

14 We are attempting today to identify best
15 practices among those other permitting agencies.
16 And we certainly do want to invite comments from
17 members of the public here. I thank you all for
18 attending.

19 We will hear presentations in the
20 sequence identified on the agenda behind my
21 shoulder. When you come up to the microphone for
22 public comment, in order for us to accurately get
23 your name for purposes of our transcript of this
24 hearing, I'd ask you to state your name and to
25 spell it so that we will be able to accurately

1 record it on our transcript. The transcript is
2 extremely important for those members of the
3 Commission and others that choose to read about
4 the hearing because they were unable to attend
5 today.

6 Commissioner Boyd.

7 COMMISSIONER BOYD: Thank you. I think
8 Commissioner Geesman pretty thoroughly covered the
9 subject area. Just a couple of additional points.

10 In some of the -- in the studies that
11 were done, particularly in 2002, 2003, about
12 California's transportation energy supply, many of
13 those studies were the product of legislative
14 requests and inquiries that began to result from
15 the continued price spiking, price volatility that
16 the state was seeming to face more and more often.

17 In one of those requests the Energy
18 Commission and the Air Resources Board were asked
19 to look at our petroleum transportation future and
20 even look at what paths might be available for
21 reducing our dependence on petroleum.

22 And in that process an awful lot of work
23 was done on supply and demand. And I believe at
24 that time it showed that while there was no
25 question that petroleum would be the dominant

1 transportation fuel for many years into the
2 future, that the California economy was very
3 dependent on petroleum, but there were other
4 avenues that perhaps needed to be taken in order
5 to address the people of California's
6 transportation fuel needs of the future.

7 So, cognizant of all that, those two
8 agencies produced a report. Later that year the
9 Energy Commission produced and presented to the
10 Governor its first Integrated Energy Policy
11 Report, which extensively looked at that same
12 question.

13 And as Commissioner Geesman has pointed
14 out, identified all kinds of problems. And one of
15 the problems would be if we don't solve some of
16 the bottlenecks, the unintended consequences and
17 extremely high cost of transportation fuel to the
18 California economy, i.e., to the California
19 public. And a need to mitigate that situation and
20 mitigate the constant price spiking we have, as
21 when supply and demand continually go out of
22 whack, I'll just say, don't agree with each other.

23 California refineries built many many
24 years ago, built at those time out in the middle
25 of nowhere, but there's no middle of nowhere in

1 California anymore. So, they're in everyone's
2 backyard. They were built to supply the western
3 region of the United States, not California. And
4 did so adequately. And as indicated, we can't now
5 even meet our own needs, and we import components
6 or we import gasoline.

7 And while we work on other pathways this
8 still remains a very critical need for the state.
9 Otherwise we divert too much of our scarce
10 discretionary income into transportation fuels.

11 So, as indicated, we want to debottle
12 the process as best as possible while totally
13 protecting the environment and the public health
14 of the people of the nation-state of California.

15 And the purpose of, therefore, hearings
16 like this is to try to be able to address that
17 point.

18 We've got to recognize that California
19 is the second-largest user of transportation fuel
20 in the world. Second only to the rest of the
21 United States. So my reference to the nation-
22 state of California is that as a nation we use
23 more transportation fuel in this state than all
24 other countries of the world short of the United
25 States. That's why it's such a critical component

1 of the California economy and why it's important
2 that we minimize costs while maximizing quality of
3 life and environmental protection, and thus why
4 we're here to try to identify some of the issues
5 and see if we can't address them.

6 So, thank you.

7 PRESIDING MEMBER GEESMAN: Okay. The
8 first witness that we have is from the South Coast
9 Air Quality Management District, with whom we've
10 had a very beneficial partnership for, I guess, 30
11 years now in the siting of electrical power
12 plants. Welcome.

13 MS. COY: Good morning.

14 PRESIDING MEMBER GEESMAN: While she is
15 setting up, let me remind people that the
16 Commission's Public Adviser, Margret Kim, is here.
17 I think she's in the very back row.

18 People desiring to address the
19 Commission should approach Margret. She will have
20 you fill out a blue card so that we have your name
21 and affiliation. And I will call people in the
22 order in which I receive blue cards. And Mike has
23 blue cards that he's passing out now. So, anybody
24 desirous of filling one out, please indicate to
25 Mike and he'll make certain that you get squared

1 away. Thank you.

2 MS. COY: Good morning, Commissioners.

3 I'm Carol Coy, the Deputy Executive Officer for
4 Engineering and Compliance at the South Coast Air
5 Quality Management District. I'm pleased to see
6 you again and to be here this morning to discuss
7 our permitting program, which, as I'll point out
8 in my comments, really plays a key role in our
9 compliance and enforcement mission critical
10 activities at the District.

11 I'll also overview the permit
12 streamlining activities and outline our
13 environmental justice program, the latter in
14 response to Commissioner and Presiding Member
15 Geesman's request.

16 By way of introduction, the South Coast
17 AQMD is responsible for achieving and maintaining
18 federal and state health based air quality
19 standards for the 15 million residents of Orange
20 County and the urban areas of Los Angeles,
21 Riverside and San Bernardino Counties. We have
22 over 26,000 facilities under permit in our
23 jurisdiction.

24 Our air quality management plan sets out
25 state and federally approved roadmap for clean air

1 progress, including the blueprint for emission
2 reduction rules that are developed in an
3 interactive public process with all the
4 stakeholders at the table.

5 To assure these emissions reductions
6 that are contemplated in the rulemaking process
7 actually are achieved in practice, the
8 requirements are translated into permits that
9 govern the construction and operation of equipment
10 that either emits or controls the emission of air
11 pollution.

12 By law, one of AQMD's major tasks is to
13 issue these permits that comprise written
14 authorization to either build or install, alter,
15 replace and then operate that equipment. Permits
16 to construct and permits to operate then become
17 the basis of our enforcement field program where
18 our inspectors regularly conduct facility
19 inspections to assure that compliance with permit
20 conditions and federal, state and local rules and
21 regulations are met.

22 In general, upon receipt of an
23 application for a permit to construct, AQMD
24 engineers review the submittal to insure that the
25 information is complete and accurate, and that the

1 proposed equipment will be built and operated
2 consistent with applicable rules, regulations and
3 policies, including establishing applicable
4 emission limits and determination of best
5 available control equipment.

6 A permit to construct authorizing
7 equipment installation is issued that may serve as
8 a permit to operate under some circumstances. The
9 permits include conditions that limit operation or
10 require specific action by a source to insure
11 compliance with rules and regulations, maintaining
12 emissions within new source review allowances,
13 proper operation of control devices, establishment
14 of appropriate record keeping and reporting
15 mechanisms, the limitation of toxic emissions, and
16 control of dust and odors from that equipment.

17 After construction and installation is
18 then complete, the AQMD verifies compliance and a
19 permit to operate is issued. Compliance with
20 permit conditions is an important responsibility
21 for a facility. Noncompliance can subject a
22 facility to enforcement action and fines and
23 penalties may be assessed.

24 Importantly, when compliance problems
25 arise, the AQMD can revise permits to include new

1 conditions to assure continuing compliance is
2 achieved.

3 Your staff has asked for us to comment
4 specifically on our permit streamlining
5 initiatives. Development and implementation of
6 permit streamlining recommendations has really
7 been at the forefront of AQMD's program
8 enhancements.

9 In the early 1990s AQMD implemented a
10 program that was named new directions, which was
11 aimed at streamlining permitting and assisting
12 businesses in the preparation of more complete
13 applications.

14 Subsequently some of AQMD's new
15 directions initiatives were actually adopted into
16 state law, which required other districts to
17 implement similar permit assistance and
18 streamlining measures.

19 In 1998 the AQMD Board adopted new
20 permit streamlining initiatives and formed a
21 permit streamlining task force consisting of board
22 members, industry, environmental representatives,
23 along with AQMD Staff.

24 As a result of numerous meetings and
25 evaluations, that task force developed about three

1 dozen permit streamlining recommendations that
2 AQMD Staff has continued to implement.

3 The improvements basically focused on
4 four distinct areas including reducing the
5 processing steps required for permit evaluation
6 and issuance, improving communications, optimizing
7 the permit structure and systems, and enhancing
8 management and operational efficiency.

9 The recommendations were aimed to
10 streamline processing activities, as well as to
11 provide better customer service to businesses that
12 require permits from AQMD.

13 The AQMD's permit streamlining task
14 force is still in existence, and is holding its
15 next meeting on February 9th in an effort to
16 continue development of further permit
17 streamlining measures.

18 AQMD has endeavored to expedite
19 applicant access to information on the permit
20 process, and has provided downloadable forms and
21 instructions, as well as our permit policy
22 document and guidance on our agency website.

23 Our experience is that prompt permit
24 processing really requires a partnership between
25 the permit applicant and AQMD permit processing

1 engineers. Consequently, for major facilities
2 with significant or multiple projects pending, we
3 encourage pre-application meetings and ongoing
4 status meetings in which we solicit applicant
5 guidance in establishing project evaluation
6 priorities.

7 In cooperation with the project
8 proponents, we've established structured project
9 processing schedules that incorporate all expected
10 permit processing activities, including parallel
11 CEQA document preparation and public noticing to
12 assure that all the timeframes can be met.

13 This type of coordinated effort is
14 really typically involved in the evaluation and
15 approval process for major petroleum
16 infrastructure projects. We believe that these
17 types of initiatives are appropriate for
18 consideration as applicable best permitting
19 practices for this industry.

20 As you know, AQMD is required by state
21 law, the California Environmental Quality Act,
22 CEQA, to review discretionary permit project
23 applications for potential air quality and other
24 environmental impacts.

25 We recognize the challenges the CEQA

1 compliance poses regardless of who fulfills the
2 lead agency role. And staff attempts to provide
3 proactive technical support.

4 The agency has developed a simplified
5 checklist form, completed by the applicant, used
6 as a screening tool to assist in clarifying CEQA
7 applicability to a proposed project.

8 AQMD typically acts as lead agency
9 responsible for determining and preparing the
10 appropriate environmental document only when we
11 have primary approval over a project.

12 To expedite adequate and timely document
13 preparation the agency has contracted with
14 consultants experienced in air quality analysis.
15 In addition, when AQMD is a responsible agency,
16 staff is available to the lead agency and project
17 proponent for early consultation on a project to
18 apprise participants of applicable rules and
19 regulations and to provide guidance on applicable
20 air quality analysis methodologies.

21 The AQMD is committed to helping others
22 expedite compliance with CEQA and air quality
23 planning requirements, and we've published the
24 CEQA air quality analysis guidance handbook to
25 assist individuals with CEQA analysis, as well as

1 a model air quality element for city use,
2 illustrating emissions mitigation activities.

3 To address Commissioner Geesman's
4 request, I'll quickly comment on the history of
5 AQMD's environmental justice program.

6 In October of 1997 the AQMD Governing
7 Board adopted four guiding principles and ten
8 initiatives to insure environmental equity in
9 agency programs. The guiding principles state
10 that all basin residents have the right to live
11 and work in a clean air environment, free of
12 airborne health threats. And it also recognizes
13 that government is obligated to protect public
14 health.

15 The principles go on to assure that
16 public and private sectors have the right to be
17 informed of scientific findings and to take part
18 in the development and implementation of adequate
19 regulations in their communities. And that the
20 governing board will actually encourage practices
21 that contribute to both a healthy economy, as well
22 as a livable environment.

23 The initial and followup initiatives,
24 which have become, in one case, the childrens air
25 quality agenda, have evolved into an annual

1 environmental justice workplan adopted by the
2 board.

3 Under the initiatives the AQMD has
4 launched a series of townhall meetings during the
5 evenings and on weekends throughout the four
6 counties where governing board members and
7 executive staff hold informal forums and meet with
8 interested community members to share information
9 and answer questions on local air quality issues.

10 The comprehensive community multiple air
11 toxics exposure study, the MATE studies, those air
12 monitoring programs have been launched under these
13 EJ initiatives, as well as diesel engine cleanup
14 and replacement incentives being created. An air
15 toxics control plan examining regulatory options
16 was initiated and the nation's first strategy for
17 reducing cumulative impacts has been developed.

18 The EJ program enhancements have focused
19 basically in three areas, further reducing health
20 risks, greater community access and involvement,
21 and economic incentives for accelerated mitigation
22 of emissions.

23 There's significant detailed information
24 on the EJ program on our website, and I'd be happy
25 to forward any written details to any member of

1 the Commission if you'd like to receive it.

2 To explain AQMD's concern regarding
3 retention of permitting authority over petroleum
4 facilities, I'd like to turn my comments to the
5 key differences between refineries and power
6 plants with respect to permitting and compliance
7 programs.

8 Although you've been hearing some
9 similar comments during the testimony that you've
10 been taking, I want to expand a little on this
11 point with some examples. The turbines and
12 boilers at electrical generating facilities
13 present relatively simple and straightforward
14 engineering analysis.

15 Potential local community impacts are
16 limited. And the key chemical process of offsite
17 impact concern is really the ammonia and SCR air
18 pollution control units. NOx and particulate
19 emissions are readily controlled with known
20 technologies, and the high stack emission points
21 limit local effects, although the quantity of
22 pollutant significantly contributes to regional
23 smog formation.

24 Of special note, however, is that each
25 piece of equipment operates independently, and the

1 consequence of malfunction is limited to emissions
2 from that specific piece of equipment and
3 disruption of electrons flowing to the grid.

4 Refineries, on the other hand, and also
5 a number of the terminal equipment, is really a
6 complex combination of interconnected equipment
7 that allows petroleum products to continually flow
8 through the production process.

9 The processes in the refineries operate
10 under high temperatures and pressures and utilize
11 numerous chemicals and toxic compounds in the
12 reaction process. Modifications to any one piece
13 of equipment within the continuous process flow
14 can have significant impact on the operation of
15 all the interconnected processes must be carefully
16 evaluated.

17 In addition, literally dozens of complex
18 federal regulations, such as the new source
19 performance standards, NSPS, and the national
20 emission standards for hazardous air pollutants,
21 NESHAP, apply.

22 Breakdowns and industrial accidents have
23 the potential to impact literally thousands of
24 residents surrounding the facilities. This
25 difference can be readily illustrated by looking

1 at our agency's complaint response statistics.

2 We operate a toll free, 24-hour public
3 complaint phone line for the public to report air
4 pollution problems and receive over 8000
5 stationary source complaints per year.

6 Inspectors investigate all complaints
7 where there's adequate followup information being
8 given by the complainant. These odor complaints
9 and reports of headache or nausea can't just be
10 dismissed as simply someone opposed to siting a
11 facility in their backyard.

12 We often confirm the odors in question
13 exist, and we're actually able to track the
14 emissions back to a specific source, locating
15 often operational problems.

16 Public nuisances may be established and
17 notices of violation can be issued. The important
18 thing to remember, though, is that each of these
19 incidents could mean the public is actually being
20 exposed to harmful chemical compound that could
21 impact their health.

22 In calendar years 2003 and 2004 we
23 received a total of 996 complaints; just under
24 1000 complaints of smoke, odors or oil fallout
25 alleging refinery sources. For that same period

1 of time we received 14 complaints concerning power
2 plants. A truly significant difference reflective
3 of the different nature of the two types of
4 facilities.

5 Also, generally unlike power plants,
6 fires, explosions and significant release events
7 at refineries can have enormous impact on global
8 residents and schools. In January of 2003 three
9 pressure relief devices lifted on a refinery crude
10 fractionator due to an external power failure.
11 Nearly 10,000 pounds, or five tons, of volatile
12 organic compounds was released in eight and a half
13 minutes.

14 Were this amount of VOC to be emitted
15 from a facility in a year it would meet the
16 threshold to become one of our 800 largest
17 facilities and require a federal major source
18 title 5 permit. That was just an eight-and-a-
19 half-minute emission.

20 And this is not a singular event.
21 During the same year other pressure relief device
22 release events involved five and a half, ten and a
23 half, and one over 60 ton release that was
24 released in just a matter of minutes.

25 Yet another example, in June of 2004,

1 almost 3000 pounds of catacarb particulate was
2 released and fell out over a two-mile-by-half-mile
3 stretch of the community.

4 Refinery enforcement cases can also be
5 large and complex. Last week AQMD filed a \$183
6 million lawsuit against one refinery alleging
7 thousands of violation counts as a sequel to a
8 current civil action seeking over \$400 million for
9 thousands of similar violations.

10 Now, these violations actually include
11 issues of improper maintenance of storage tanks,
12 which are used throughout storage facilities and
13 marine terminals.

14 We have already modified this particular
15 refinery's permit to assure that further operation
16 of this equipment will not result in adverse
17 public health impacts. Absent permitting
18 authority, the District would be unable to take
19 prompt action to further protect the community in
20 cases such a this.

21 So, let there be really no
22 misunderstanding. We want the record in this
23 proceeding to be very clear. The AQMD fully
24 opposes any proposal to transfer permitting
25 authority for petroleum operations to the state

1 level or CEC.

2 Current power plant permitting is not a
3 streamlined process, but rather really a layered
4 process. Applications are submitted to both CEC
5 and the air quality district with jurisdiction.
6 The air agencies conduct their engineering review,
7 forward their draft permit along with a
8 determination of compliance, the DOC, to the CEC.

9 The CEC then incorporates our DOC into
10 the final staff assessment and Presiding Member's
11 recommendation, which ultimately goes to your full
12 Commission for approval at a public meeting.
13 After final certification by CEC, the AQMD can
14 then issue the federal title 5 authority to
15 construct in compliance with state CEQA and our
16 federal title 5 program.

17 Refinery options are amongst our largest
18 emitters of both criteria and toxic air pollution.
19 Refineries comprise our top seven SOx emitters;
20 and seven of our top 11 NOx emitters. Petroleum
21 facilities, including the terminals, comprise ten
22 of our top 15 reactive organic gas emitters.

23 Appropriate emissions reductions and
24 control through local permitting and enforcement
25 at these facilities is really key to our

1 stationary source emission reduction commitments
2 in the state implementation plan, as enforced in
3 our region at the federal level.

4 To adequately administer a permitting
5 program of this complexity, the state will need a
6 significant new staffing and expertise in
7 application of these complicated federal statutes
8 affecting the equipment.

9 Delegation of federal title 5
10 administration requires full capability to not
11 only permit, but enforce federal requirements.
12 AQMD currently has a full-time inspector assigned
13 to each one of our refinery facilities.

14 As Commissioner Geesman has already
15 stated this morning, we're really not talking
16 about siting a new refinery in southern California
17 area any time soon. We're talking about the
18 evaluation and approval of hundreds of ongoing
19 significant modifications to existing processes
20 and equipment at refineries, storage facilities
21 and terminal facilities.

22 AQMD received nearly 800 refinery energy
23 permit applications last year, and we issued over
24 1000 permits. I believe that it's important to
25 note that our District has a track record of

1 successfully partnering with our local petroleum
2 facilities to meet federal and state deadlines;
3 most recently for production of new clean fuel
4 infrastructure.

5 All permits were timely issued, and all
6 infrastructure modifications completed to deliver
7 the required fuel formulation in full compliance
8 with state deadlines.

9 That said, South Coast AQMD Staff,
10 however, stand ready to continue to assist the CEC
11 in your development of both permitting
12 recommendations and in the development of the
13 petroleum infrastructure environmental performance
14 report. To that end, we hosted the interagency
15 local district and state meeting last week, and
16 are currently compiling the requested data for
17 transmittal to your staff.

18 We're anxious to help the Commission
19 evaluate environmental impacts and issues
20 associated with your discussions and proposals.
21 And are interested in any permitting program
22 suggestions and comments that you develop.

23 Thank you for the opportunity to share
24 this information with you this morning. Certainly
25 wiling to answer any questions that you may have.

1 PRESIDING MEMBER GEESMAN: Well, I
2 certainly want to thank you for your input this
3 morning, and the continuing history of close
4 working relationship which we've enjoyed with the
5 South Coast Staff.

6 I do have a couple questions. They
7 primarily focus on areas where you are not the
8 lead agency for CEQA purposes. And I know that
9 when the board adopted it's environmental justice
10 workplan in October of 1997, one of the components
11 of those ten initiatives was to enhance and expand
12 the review and commenting on CEQA documents
13 prepared by other agencies.

14 I wonder if you could tell us what's
15 changed since October of '97 in that area.

16 MS. COY: Yes. What's happened is our
17 CEQA staff has focused on documenting to the
18 district governing board every CEQA document that
19 basically comes in to the agency. And we prepare
20 a monthly report that actually goes to the public
21 governing board meeting listing all the projects,
22 whether or not the District is going to comment on
23 them. And all comment letters that come out of
24 our CEQA group on these projects are now posted on
25 our website on a monthly basis.

1 So what we've done, really, to implement
2 that initiative is to make available to the public
3 at large the agency comments that involve air
4 quality impacts from the various other projects
5 going on in the basin.

6 So you can go to the website; readily
7 access what's come into the District; whether or
8 not we are going to comment. And actually view
9 the comment letters that are sent out to the
10 various lead agencies.

11 PRESIDING MEMBER GEESMAN: Now, in 1997
12 Chairman Burke, in introducing the ten-point
13 initiative, noted that you received about 50 EIRs
14 a month, but were only making comments on one or
15 two. Has that changed since 1997?

16 MS. COY: Yes. The number of comment
17 letters has actually greatly expanded from what
18 I've seen in the governing board reports. What
19 has happened is our agency is precluded from
20 actually being a local land use authority. And so
21 through development of the model air quality
22 element, which was another response to an EJ
23 initiative, we're trying to give the local, mainly
24 city and county, authorities some better technical
25 information to be able to base their own local

1 land use decisions.

2 I believe that that's a challenge that
3 has been in front of this Commission for some time
4 in these discussions. And we're trying to be able
5 to share expertise that we have on the air quality
6 impact side of the discussion so that decisions
7 can be better based on good science and strong
8 public policy.

9 PRESIDING MEMBER GEESMAN: Do you have a
10 sense of how many comments you're making on EIRs?
11 I mean if it was one or two out of 50 in 1997,
12 roughly what is it today?

13 MS. COY: It's greatly expanded over
14 that. I actually may have the current monthly
15 report and we could take a look at that. I
16 would -- my recollection is that there'd be at
17 least 10 to 12 comment letters a month is the
18 types of numbers that I believe that you would
19 see.

20 And that's now not on the projects, of
21 course, which we are the lead agency on.

22 PRESIDING MEMBER GEESMAN: Sure. Now,
23 included in that initiative in 1997 was a desire
24 to increase your staff in providing CEQA comments
25 and assisting other local land use agencies. It's

1 been a pretty tough eight years in the public
2 sector. Have you been able to do that?

3 MS. COY: No, our staff has definitely
4 not expanded during that time. We are facing the
5 same critical budgetary situations that other
6 public agencies are. And so much of our budget is
7 actually involved in staff salaries and benefits
8 that everyone of these \$3- to \$4-million
9 retirement increase hits as we got last year, and
10 now are again getting this year, translates into
11 basically 30 to 40 staff positions of concern.

12 However, what's happened is the CEQA
13 staff has been augmented by some additional folks.
14 So what there's been is there's been a shift
15 trying to focus from other activities onto
16 supporting some of the local governments with
17 technical issues involved in CEQA analysis.

18 PRESIDING MEMBER GEESMAN: Do you have a
19 sense, since 1997, what the magnitude of that
20 shift has been?

21 MS. COY: From where I sit in a
22 different part of the District I would estimate
23 that there is -- that we've seen at least one
24 full-time person, in addition to what used to be
25 directive.

1 And that, though, that impact is really
2 greatly magnified by having a model air quality
3 element and the CEQA guidance documents. For
4 example, this checkless form that I spoke about
5 earlier, because project applicants are better
6 able to be channeled into appropriate
7 documentation and decisionmaking. So there's not
8 as much preliminary discussion that has to go on.

9 In addition, proffering this early on
10 information stops project proponents and cities or
11 county authorities from going down a track that
12 doesn't use correct methodology, air quality
13 calculation methodologies. Although certainly we
14 still see comments where we do request that those
15 calculations be redone.

16 PRESIDING MEMBER GEESMAN: Focusing
17 specifically on the refining communities, or the
18 neighborhoods in the areas adjacent to exhibit
19 refineries, do you have some way of measuring
20 community satisfaction with the quality regulation
21 of these facilities? Do you conduct surveys, or
22 do you base your assessment on compilation of
23 complaints?

24 MS. COY: Well, we look very carefully
25 at the patterns of complaint response. And areas

1 where we're getting significant new complaints
2 from where we've got odors, for example, that
3 we've not been able to pin down.

4 It's a difficult situation because
5 around some of these major facilities, and they're
6 mainly petroleum infrastructure facilities and a
7 couple of our large coating operations, they are
8 subject to all sorts of fugitive emissions and
9 breakdowns.

10 And so we try to go into those
11 communities with these townhall meetings. And I
12 would say that one of the key efforts we've made
13 to try to judge satisfaction is at those townhall
14 meetings.

15 We continue to hear considerable concern
16 about the fact that air quality permits allow
17 emissions, period. And the fact of the matter is
18 the rules and regulations are set up in a way that
19 businesses are allowed to conduct operations that
20 do create emissions. But those emissions are
21 regulated through the series of AQMD rules and
22 regulations, as well as the state and federal
23 regs.

24 And so I think that the thing that we
25 hear most often is dissatisfaction that we allow

1 any emissions whatsoever. And that's just the
2 nature of regulations that are developed to be
3 health-protective, and yet at the same time allow
4 business and the economy to continue.

5 And I think that when the executive
6 staff and governing board members are in
7 communities, we invariably hear a number of
8 community folks where if there's been a problem,
9 we've been able to document it, we've been able to
10 locate the source, and we've resolved the problem.
11 We'll have community folks stand up and say thank
12 you. You know, this had been ongoing for awhile.
13 These folks got in; they really dug in; they got
14 the problem solved.

15 But on the other hand there'll be
16 another situation where there's been an accident,
17 or there's been odors that we've been unable to
18 track back where the public will still be
19 dissatisfied.

20 PRESIDING MEMBER GEESMAN: Do you
21 perceive a trend one direction or the other in
22 community dissatisfaction since 1997?

23 MS. COY: We believe that there's been a
24 trend to increased compliance by facilities in the
25 last several years, as evidenced in our inspection

1 compliance statistics. And we've seen a drop in
2 the last four years, and about 2000 complaints per
3 year coming into the District.

4 And so that is -- we believe that that
5 is an indication that some problems have been
6 solved, some long-standing problems. And there's
7 been some proactive work. For example, mainly in
8 other industries, such as fugitive dust in
9 construction sites and rock plants. There's some
10 new proactive regulations that have really reduced
11 the number of problems.

12 So, with that sense, to looking at those
13 stats, we see improvements in some areas, and --
14 another statistic that we discussed just yesterday
15 with a group of stakeholders at the District is
16 that requests for emergency response assistance
17 from our technical assistance team are way down
18 over the last eight years in a trend.

19 And, again, I would attribute that
20 reduction, though, to much enhanced safety systems
21 in place in both industrial operations, as well as
22 in the transportation of hazardous materials, and
23 materials that may cause an airborne contaminant
24 problem.

25 PRESIDING MEMBER GEESMAN: Now, I think

1 you were speaking of, certainly in terms of those
2 statistics, on a District-wide basis.

3 MS. COY: Right.

4 PRESIDING MEMBER GEESMAN: Could you
5 isolate the refinery neighborhood and make a
6 similar conclusion?

7 MS. COY: I've not done that at this
8 point because we have handled complaints as they
9 have come up. But we could certainly produce that
10 very easily --

11 PRESIDING MEMBER GEESMAN: I think that
12 would --

13 MS. COY: -- for the Commission.

14 PRESIDING MEMBER GEESMAN: -- be very
15 helpful to us.

16 MS. COY: I think it would be an
17 interesting thing to do.

18 PRESIDING MEMBER GEESMAN: I think that
19 would be very helpful.

20 MS. COY: We'll certainly do that.

21 PRESIDING MEMBER GEESMAN: Turning then
22 just briefly to the areas where you are the lead
23 agency for CEQA purposes, as you indicated in your
24 testimony, these are pretty complicated technical
25 subject matters.

1 How do you assist residents of the
2 neighborhoods adjacent to these refineries in
3 participating in a meaningful way in your
4 permitting process?

5 MS. COY: I believe that it is actually
6 started with rule development processes here in
7 the Port area, as not only the part of the
8 environmental justice initiatives, but as
9 compliance outreach.

10 For example, when the petroleum coke
11 regulation was being discussed to be strengthened,
12 we initiated a community panel that joined with
13 industrial representatives. And our compliance
14 staff actually sat down. We started from scratch
15 with that advisory group, with our District
16 meteorologist going over wind patterns in the
17 area, met patterns, how you read windrowses, all
18 the way into discussions about what particulates
19 really are and what role they play in the overall
20 health impacts from ambient air quality today.

21 So, members of that task force,
22 basically on the industry side, began to get to
23 better know community members. And the community
24 members that were on that task force significantly
25 increased their general working knowledge of some

1 very technical issues that were involved in rule
2 development.

3 And as a result I would say that rule
4 1158, that required a closed coke storage, was
5 really quite successful in its implementation.

6 However, shortly after implementation,
7 as new community groups became involved in
8 complaints about that issue, you could right away
9 again get to the point where new education
10 opportunities needed to be provided.

11 So our public adviser staff has begun a
12 series of programs to try to help inform and
13 educate community members on general air quality
14 concerns.

15 Yesterday, for example, with the help of
16 your sister agency, the California Air Resources
17 Board, we actually hosted the first community
18 smoke school that brought in about three dozen
19 community activists. And went through a couple of
20 hours of overview of air pollution compliance
21 policy; and we actually, in the afternoon, went
22 out and did a smoke generator smoke school run-
23 through. So they became familiar with what
24 challenges both industry and District inspectors
25 face in the field to enforce, for example, an

1 opacity violation, or an opacity observation.

2 It was funny because one of the
3 representatives, a community member that we work
4 with often, I really had to chuckle because one of
5 his comments was, "What do you mean, if the sun
6 isn't at my back it doesn't count?" Because to be
7 able to read smoke you have to have the sun at a
8 certain angle to the smoke to be able to actually
9 take a compliance reading.

10 And so that type of effort, the District
11 is trying to expand opportunities for the public
12 to better learn the actual authority and expanse
13 of air quality regulation.

14 Certainly there are many many more
15 opportunities to do that, but in the permitting
16 process we try to make permitting staff available,
17 and we answer any calls and questions. In the
18 title 5 process we've been holding public
19 consultation meetings, even though a member of the
20 public may not have requested an actual title 5
21 hearing.

22 And in those venues we try to help
23 answer the technical questions the community may
24 have to help them better prepare on-point
25 questions and comments.

1 PRESIDING MEMBER GEESMAN: Now, I know
2 you've certainly held an extensive network of
3 these townhall meetings. On individual permit
4 applications, do you hold public hearings in the
5 impacted communities?

6 MS. COY: On significant projects now,
7 they basically are occurring at title 5
8 facilities. And so a significant modification
9 would trigger the opportunity for a public
10 hearing.

11 We're just now, however, getting through
12 the initial title 5 issuance process. And public
13 hearings, as I had referred to earlier, were an
14 option in the process if somebody requested it.

15 However, to better assist the public we
16 went ahead and noticed public consultation
17 meetings concurrent with the public notice for the
18 permit review going out so that we already had a
19 set time and place and folks would be able to come
20 if they had any questions regardless of whether or
21 not the hearing was actually requested.

22 We've had some interest in those
23 consultation meetings. But a number of them have
24 been very poorly attended.

25 PRESIDING MEMBER GEESMAN: And do your

1 board members participate in your public hearings?
2 Or are those conducted by a hearing officer or
3 administrative law judge?

4 MS. COY: The title 5 hearings, if one
5 had been officially requested, are held then by
6 one of -- it would be the executive officer or his
7 appointee actually holding the public hearing.

8 There is another permit appeal process
9 where a pending permit can be brought actually to
10 the governing board for what's called a regulation
11 12 hearing where the governing board decides
12 whether or not to hold a hearing. And they have
13 held a couple of these in the past where the
14 governing board actually hears issues concerning
15 the permit from the public. But those are few and
16 far between. It really needs to be some issue
17 that isn't able to be addressed through the
18 regular permit issuance and appeal process with
19 our hearing board.

20 PRESIDING MEMBER GEESMAN: And are those
21 governing board member hearings on appeal held in
22 the impacted communities or at your headquarters
23 or --

24 MS. COY: The ones in my experience
25 where they were considering these hearings were

1 actually held in the community on the weekend.

2 PRESIDING MEMBER GEESMAN: Any
3 consideration been given in permitting hearings to
4 providing intervenor fees or expert witness fees
5 for representatives of the locally impacted
6 communities?

7 MS. COY: We have not discussed that.
8 It's an interesting idea to consider.

9 PRESIDING MEMBER GEESMAN: I know in, I
10 believe it's the Public Utilities Commission's
11 process, they've had a long-standing practice of
12 providing intervenor compensation to assure that
13 interests that aren't ordinarily going to be
14 represented at a level of technical proficiency
15 have the opportunity to participate as equals.

16 It's something that we have considered
17 several times and the Legislature has not
18 permitted it in our process. But I think in these
19 issues involving some clearly identifiable
20 communities, and as I indicated, the refineries
21 aren't going to move. We know where these
22 facilities are going to end up having to be sited,
23 if they are to be sited. It would seem to me it
24 certainly bears further pursuit.

25 MS. COY: Very interesting idea I'll

1 take back to the exec council.

2 PRESIDING MEMBER GEESMAN: I certainly
3 want to thank you for your input and, as I said,
4 the continuing close working relationship we've
5 achieved with your staff over the years.

6 MS. COY: Thank you, we appreciate it,
7 as well.

8 PRESIDING MEMBER GEESMAN: Commissioner
9 Boyd.

10 COMMISSIONER BOYD: 'Morning, Carol,
11 good to see you again.

12 MS. COY: Good morning.

13 COMMISSIONER BOYD: And I'm fairly
14 intimately familiar with the workings of the AQMD,
15 and I want to express our appreciation for your
16 recent work with us on this subject.

17 I want to go -- well, let me ask, I've
18 got just a couple of questions here. One, I
19 referenced in my opening comments which weren't
20 scripted. You know, the fact that lots of
21 facilities when originally built were fairly
22 remote from population. That's not in the days
23 when we had 36 million people in the state.

24 And I'm wondering in the timeframe you
25 said from 1997 to the present your observation

1 with regard to population at the fenceline of all
2 these kinds of infrastructure facilities we're
3 talking about, in this period of time has there
4 been an increase in the numbers of the density?
5 Or by then was it already -- had land use
6 decisions already piled people up against these
7 property lines?

8 MS. COY: Well, when we're talking
9 petroleum infrastructure, the storage facilities -
10 - with respect to the refineries, most of the
11 homes have been there for quite some time.

12 But I think what you're seeing is you're
13 seeing a changeover of old-time residents and new
14 community members flowing into neighborhoods that
15 surround the refineries. And so we've got folks
16 that haven't lived in some of these types of very
17 industrialized areas.

18 I think that you see many more children
19 now in these households, because during the
20 time -- I've been with the District now about 23
21 years -- during the initial time in the field you
22 began to see an aging population with kids gone,
23 and we begin to see new young families move into
24 these neighborhoods, raising kids, with schools
25 really impacted in close proximity to the

1 refineries.

2 So, although the schools have been
3 there, the schools have, to my observation, a much
4 denser student population than a couple of years
5 ago.

6 As far as storage terminals I can think
7 of a couple of loading racks and storage terminals
8 where it appears that we have, you know, some new
9 buildup of homes nearby.

10 But as far as marine terminals they're
11 pretty well segregated still out in the Port area.

12 So unlike landfills, where in the last
13 decade and a half, you've had homes just built
14 right up around the waste sites, we're really
15 dealing with an aging infrastructure around the
16 refineries, themselves.

17 COMMISSIONER BOYD: Okay, thank you. As
18 I mentioned in the beginning, a lot of studies
19 were done by the CEC and others over the past few
20 years on the subjects of transportation fuels. As
21 I indicated, precipitated by frequent price
22 spikes.

23 And the Energy Commission, being a
24 relatively small agency, depends heavily on
25 consultant studies for a lot of the facts and

1 figures that it deals with. And I know the CEC
2 Staff, and thus the Commissioners, ultimately
3 relied on a lot of these studies for the findings
4 that were reached.

5 And in the case of this particular
6 arena, there was, I believe, as I see it, -- in
7 any event, there was a lot of review of the
8 permitting processes. And I want to take this
9 away from just Air Districts. And the general
10 observation was that there are, in this state, an
11 awful lot of hurdles, as viewed by some folks,
12 permit required. And some of the hurdles are
13 quite high; others are not so high. There just
14 are a lot of them.

15 And I think one of the things we're
16 trying to ascertain is just the absolute necessity
17 for all of these; and/or, if not the necessity,
18 the opportunities for streamlining, which
19 sometimes just means concurrent review or more
20 cooperation between multiple agencies, rather than
21 the sequential review that I know you and I have
22 seen down through the years.

23 Have you seen much of a change in the
24 patterns of reviews by other agencies as you deal
25 with some of the activities that you have over the

1 years? Because I must admit, one of the high
2 hurdles to folks are air quality permits, but I
3 also know personally that air quality districts
4 have put an incredible amount of effort, as you've
5 related, into the subject area of permitting and
6 permitting process, and streamlining and what-
7 have-you.

8 I'm just not sure that has occurred in
9 other places. I'm wondering what your view is of
10 at least concurrent review in cooperation with
11 other districts, or other agencies that have these
12 responsibilities, might have -- how it might have
13 changed? Or do you see it changing over the past
14 few years?

15 MS. COY: Yes, Commissioner Boyd, I
16 think I share your general concern in that area.
17 I believe if our executive officer were sitting
18 here today he would tell you that we actually much
19 prefer to be the lead agency on a number of these
20 larger petroleum infrastructure projects. And
21 have worked very closely with EPA in the
22 development of our title 5 part 7 permitting
23 program to assure that there was concurrent review
24 at the end of this permit processing time, so that
25 EPA would initiate concurrent review with the

1 public review process, and we would work with them
2 even before the permit was done so they're not
3 seeing it fresh for the first time, so we don't
4 have this extensive review period running on with
5 sequential review.

6 On projects where we've been the lead
7 agency we've endeavored to establish a project
8 time table with the proponents up front. And in
9 the case of the clean fuels projects, actually
10 establish MOUs with each of the project
11 proponents. So that items that we needed and
12 responses that they need to develop, and things
13 that had to be done for the CEQA document were all
14 jibed at the beginning on a schedule that was very
15 carefully tracked.

16 We did, however, have another petroleum
17 infrastructure project in recent memory where we
18 had discussions with the facility; and the
19 facility and city decided to have the city be the
20 lead agency. And that project has not come to
21 fruition. It has been taken off the books.

22 And so one reason that we've preferred
23 to work very closely with the project proponent in
24 handling that lead agency authority is to avoid
25 just such delays, so that we could try to be very

1 proactively involved, step by step, and involve
2 all the interested parties, and try to get issues
3 hammered out during the actual permit development.

4 So, I think that it hasn't been as much
5 a problem except for very lengthy commenting
6 demands. When we have very lengthy comment
7 letters, we spend a lot of time making sure that
8 appropriate technical comments are developed. And
9 that we look carefully at what those comments are.

10 And so we have a longer time spent in
11 commenting actually than in trying to get
12 everybody together.

13 COMMISSIONER BOYD: Well, I haven't seen
14 you as much as we've seen Mohsen lately, but
15 hopefully he's taken the message back that we've
16 thrown in a few bouquets in the name of the
17 District for some of the work you've done.

18 And, of course, I'm intimately familiar
19 with the clean fuels project of quite some time
20 ago now. And I would commend the District for the
21 work it did at that time.

22 But one of the unfortunate, or maybe sad
23 parts of that effort, it was recognized as going
24 to be a monstrous effort involving investment of
25 \$4- to \$5-billion in the state. And an awful lot

1 of people, including yourselves, put an awful lot
2 of effort into making that effort work. And the
3 South Coast really did step up to the plate and
4 take responsibility. Some of your peers did not.
5 And it wasn't handled as well.

6 But what goes through my mind is that
7 was a monstrous effort, and, you know, it was a
8 special effort, a special project. But government
9 agencies can't afford to do that for each and
10 every permit. So there are exceptions. That was
11 well handled; I'm sure lots of small things --
12 none of us has enough staff in government to deal
13 with the needs of 36 million people, it seems,
14 these days.

15 And so my concern is the exceptions get
16 handled; the rule is still done with a lot of
17 people looking down the track at just an
18 incredible number of hurdles to deal with. And
19 it's difficult for folks to see the value of
20 investing in California or dealing in California.

21 So I continue to wrestle with that.
22 Thank you very much.

23 Oh, one quick comment on petroleum coke.
24 Just FYI, one of my pet projects has been both the
25 near quality, and particularly now in the energy

1 area, is trying to use waste for good things. And
2 petroleum coke is a waste. It has a little bit of
3 an economic value so it makes its way to ports and
4 gets shipped other places.

5 And I'm pleased that the current
6 administration has indicated a renewed interest in
7 biomass, bioenergy and using things that are a
8 waste. And I'm going to be gearing up a new group
9 to look at that subject.

10 And one issue always on my list has been
11 petroleum coke. You know, don't move it somewhere
12 to ship it somewhere, but use it potentially as an
13 energy source and eliminate a lot of the issues
14 involved with moving it around and shipping it.

15 So, perhaps we can talk about that more
16 in the future. But, we need to work on the
17 economics of some of these things, but using waste
18 for energy is something that still is something
19 our agency is definitely interested in.

20 So maybe there's a future that will
21 reduce the air quality impacts of moving petroleum
22 coke around.

23 Thank you.

24 MS. COY: Thank you.

25 DR. TOOKER: My name is Chris Tooker,

1 with the Commission Staff. I have a couple of
2 questions.

3 First of all, in some staff-to-staff
4 meetings we had last year with South Coast and
5 some of the local governments, as I recollect
6 there was, of course, a lot of recognition and
7 respect for the District's CEQA review process.

8 But it was my recollection also that
9 your District tended to be the CEQA lead agency on
10 large projects. But you seem to be saying that's
11 not necessarily the case.

12 MS. COY: We are on some, not on others.

13 DR. TOOKER: Have you ever explored the
14 option of developing MOUs with the local cities
15 and the country, as appropriate, to coordinate the
16 CEQA review process?

17 MS. COY: We have explored MOUs with
18 several cities on a couple of projects that were
19 quite some time ago. And I actually don't recall
20 who ended up as the lead agency on those projects.

21 DR. TOOKER: Thank you. The other
22 question I have relates back to a workshop we held
23 a few months ago on our environmental trends
24 project related to petroleum infrastructure.
25 Mohsen was there and participated.

1 There was a comment made by an
2 environmental group at that workshop expressing
3 great concern about the upsets associated with
4 petroleum infrastructure, and especially
5 refineries, and the continuing use of flares. And
6 Mohsen had responded by saying, as you have said,
7 that refineries, by nature, are very complicated
8 technically and do have to manage and respond to
9 prevent upset conditions, or to minimize upsets.

10 And I'm wondering how the District has
11 grappled with this idea going forward, given the
12 concerns of the community, as to the use of
13 flares?

14 COMMISSIONER BOYD: Chris, people are
15 having trouble hearing you in the back, so you're
16 going to have to get right on the mike. And then
17 give it to Carol when you're done.

18 DR. TOOKER: Okay. The question is how
19 do you see the use of flares as part of the
20 petroleum infrastructure technology going forward,
21 given the concerns about local impacts of
22 releases.

23 MS. COY: Well, that's a really great
24 question, Chris, because sitting here today we
25 know so much more than we did two or three years

1 ago. Because the District adopted rule 1118 that
2 required refineries to actually install flow
3 monitoring equipment in the flares, in the systems
4 that led to the flares, depending on the actual
5 way each refinery had configured the piping
6 leading to flares.

7 Flaring is absolutely a required
8 emergency release device to protect equipment, to
9 protect lives in many cases. However, what we've
10 learned in reviewing all of the data that was
11 developed by the refineries over a multiple year
12 period is that flaring really varies from refinery
13 to refinery.

14 Every refinery is a completely different
15 animal in how big a vapor recovery capacity they
16 have in the refineries, which flares are actually
17 venting which units. And so what has happened is
18 some -- we've actually found in review of the data
19 that some refineries really used flaring as more
20 of a routine practice, where there was excess fuel
21 gas in the system, it had nowhere to go.

22 And then the impact outside in using
23 that flare really varies depending on how much
24 sulfur removal capacity that refinery particularly
25 has in that gas stream.

1 So some refineries had very low sulfur
2 in some of the gases that were being vented to
3 flares; others had a higher sulfur level, which
4 could result in an odor event and sulfur event in
5 the community.

6 And so we have a very extensive refinery
7 flaring report that went to the governing board.
8 And the governing board authorized continued
9 rulemaking activity on the flares to try to figure
10 out what is the best type of control plan for the
11 flaring activity.

12 You can't just say, thou shalt not
13 flare. It's just not possible with the
14 technologies today. But you can certainly look,
15 and the staff is now grappling with refinery
16 representatives, on understanding actually those
17 nuances. And it's not a one-size-fits-all type of
18 process.

19 But I believe that even the refinery
20 representatives learned a lot about how their
21 flaring processes operated, because there are
22 passive emissions that were going to the flares in
23 some cases.

24 So I can send you the full refinery
25 flaring study. I think that that would answer

1 many of your questions. And would probably be a
2 good thing for the Commission to have at their
3 ready.

4 PRESIDING MEMBER GEESMAN: Okay, thanks,
5 again, Carol.

6 We're now at the point in our agenda
7 where I want to invite comments from any local
8 government representatives that care to share with
9 us. At least as of yesterday I don't believe we
10 had any sign-ups for that role. But if there are
11 any representatives of local government that would
12 care to address us, this is the time.

13 Hello, Sheri.

14 MS. REPP-LOADSMAN: Good morning,
15 Commissioners. My name is Sheri Repp-Loadsman;
16 I'm with the City of Carson.

17 And as many of you know, we do host a
18 number of petroleum infrastructure businesses
19 within the City of Carson.

20 In general, in reviewing the process the
21 Commission has taken in reviewing the state's
22 obligations, as well as local and regional agency
23 obligations, we do feel that there is an important
24 role for the local governments to play in the
25 permitting process.

1 Now, for the most part, we rely very
2 heavily on the Air Quality Management District to
3 provide leadership and often lead agency status as
4 it relates to the CEQA process. There are a
5 number of occasions where the City of Carson has
6 maintained that lead agency status. And we
7 believe, for the most part, that we've performed
8 our responsibilities with the appropriate care and
9 consideration for all of the parties concerned.

10 For the City of Carson we do recognize
11 and support the maintenance of many of our
12 petroleum infrastructure businesses. We also
13 support their opportunities for modern expansions.

14 Our concern, however, would be with
15 significant expansions that may compete with our
16 otherwise important goals and objectives within
17 our general plan.

18 But the importance of having the local
19 discussion, I think, helps maintain that balance,
20 which is important both for our community as well
21 as the surrounding communities.

22 I'll keep my comments very short. I
23 think my main opportunity in being here is just to
24 encourage all the regulatory agencies, the
25 community groups, the environmental groups, and

1 the industry, itself, to continue to work in
2 partnership.

3 I believe it's through the communication
4 and the education that we continue to provide
5 better opportunities for reviewing these projects
6 on a case-by-case basis. And I've seen very good
7 success over the last couple of years where
8 individuals and companies have taken the extra
9 effort to make sure the information is provided in
10 a way that is meaningful and helps the local
11 decisionmakers make the appropriate decisions for
12 the local community, as well as the regional good.

13 I'd be happy to answer any further
14 questions.

15 PRESIDING MEMBER GEESMAN: Well, I do
16 want to thank you for your input. You've appeared
17 before us a couple of times; it's been well
18 appreciated.

19 I guess I'd be curious, from your
20 perspective, how you determine or how you would
21 define an instance where it's more appropriate for
22 the City to be the lead agency in the CEQA process
23 than for the South Coast Air Quality Management
24 District.

25 MS. REPP-LOADSMAN: Certainly. There

1 are basically two areas that we consider. One
2 would be relative to the permits that are
3 necessary for the City of Carson to issue.

4 And secondly would be the majority of
5 concerns that are expected to be raised through
6 the CEQA process.

7 In Carson we have several circumstances
8 with our petroleum industries where they're
9 actually considered to be ministerial actions, for
10 the most part, from the City, when they do
11 improvements and/or upgrades to their existing
12 facility.

13 The reason for that is that Carson
14 incorporated in 1968. We inherited many of these
15 facilities under former County permits. The
16 County, at certain stages in their, I guess,
17 entitlement process, was very liberal in terms of
18 allowing these facilities to grow and to change
19 without triggering additional discretionary
20 review.

21 In that case it really is just a normal
22 permitting process whereby the Air Quality
23 Management District really has the lead status in
24 determining some of the environmental impacts and
25 appropriate mitigation measures. So we do rely

1 upon the South Coast Air Quality District for that
2 lead agency status.

3 In the second case we may actually have
4 discretionary permits involved. But if it's
5 primarily associated with air permits, we will
6 often allow or ask the Air District to be the lead
7 agency.

8 The cases that have occurred recently,
9 in the late '90s we did have a request for a
10 hydrogen facility where the City of Carson was
11 lead agency. Shell wanted to have an ethanol
12 distribution facility constructed. The Air
13 Quality Management District was lead in that.
14 Most recently we have an expansion of a tank farm
15 by Kinder-Morgan. The City of Carson is lead
16 agency.

17 All of the clean fuel projects we've had
18 the District be the lead agency.

19 So those give some examples of how we've
20 shared that responsibility. But I believe the
21 communication has been very good in all respects.

22 PRESIDING MEMBER GEESMAN: I've tried to
23 determine, for example, in the Kinder-Morgan
24 project, why would that one fall on one side of
25 the line or the other, as you would determine who

1 should be the lead agency.

2 MS. REPP-LOADSMAN: I believe that one
3 really had the opportunity of going either way.
4 We did have a conditional use permit that needed
5 to be considered by the planning commission. We
6 did feel that there were a number of circumstances
7 that were associated with land use impacts that
8 the community did have an interest in. So the
9 City did choose to be lead agency in that
10 position.

11 PRESIDING MEMBER GEESMAN: In the areas
12 where you have chosen to be lead agency, and there
13 are some air quality impacts, do you utilize the
14 standard air quality methodology that the
15 District's witness described to us a few minutes
16 ago?

17 MS. REPP-LOADSMAN: Yes, we do. We
18 often will have early consultation with the
19 District Staff. Typically for the City of Carson,
20 we hire an environmental consultant that performs
21 this technical work on our behalf. And we have
22 always encouraged those consultants to work very
23 proactively, both with the applicant as well as
24 with the District.

25 In some cases we've actually had

1 situations where we've exceeded the normal
2 District requirements.

3 PRESIDING MEMBER GEESMAN: Yeah, I'm
4 thinking more in terms of the methodology used to
5 assess air quality impacts than determining what
6 the mitigation requirements should be.

7 Is there any reason why all communities
8 within the South Coast Air Quality Management
9 District shouldn't be required to always use their
10 methodology for assessing impacts?

11 MS. REPP-LOADSMAN: I believe that the
12 communities should use the methodology from the
13 District. And to the best of my knowledge I
14 believe that we've always complied with that
15 requirement.

16 PRESIDING MEMBER GEESMAN: Now, on the
17 Kinder-Morgan project there have been several
18 times when your city council has not been able to
19 muster a full panel of council members, has there
20 not?

21 MS. REPP-LOADSMAN: You know, we have
22 definitely had some circumstances in Carson that
23 have created difficulties in decisionmaking. And
24 there have been some delays relative to our
25 council.

1 PRESIDING MEMBER GEESMAN: And, you
2 know, not to beat around the bush, but the
3 majority of your council, at one point, were
4 convicted or confessed to criminal violations,
5 which caused them to be removed or resign from
6 office, isn't that right?

7 MS. REPP-LOADSMAN: That is correct, but
8 I don't believe that significantly impacted the
9 City's ability to review applications.

10 PRESIDING MEMBER GEESMAN: I guess from
11 the standpoint of somebody required to take a
12 statewide assessment of our petroleum challenges,
13 it has a direct impact on my ability to have much
14 confidence in that local review process.

15 And I don't have any specific instances
16 to cite and don't, as I understand it, believe any
17 of the corruption convictions or confessions were
18 related to petroleum projects. But it fuels my
19 concern that the way we currently allocate
20 jurisdiction over these questions in California
21 today does not provide the affected communities
22 with appropriate leverage vis-a-vis the powerful
23 industry that they face, and one of the primary
24 reasons why I think the stronger role for state
25 government is something worthy of consideration.

1 MS. REPP-LOADSMAN: I think there are
2 definite challenges that we have on the local
3 level. And it's primarily associated with the
4 education and understanding that our elected
5 officials may have, both as it relates to
6 petroleum infrastructure, but almost every
7 development issue that would come before them.

8 I think the challenge is to make sure
9 that we have a process that is open, that is
10 public, that is provided in the appropriate
11 fashion in terms of all legal requirements. And
12 to the extent that the state can provide a role in
13 leadership, as well as providing some direction,
14 that would certainly be welcomed. But I don't
15 believe that necessitates the removal of the local
16 decisionmaking.

17 PRESIDING MEMBER GEESMAN: I thank you
18 for your input.

19 MS. REPP-LOADSMAN: Thank you.

20 COMMISSIONER BOYD: No questions, other
21 than you left out timely.

22 MS. REPP-LOADSMAN: We do try to be
23 timely.

24 (Laughter.)

25 HEARING OFFICER FAY: Okay, I'd like to

1 then start with our public comment. And I'm going
2 to call people in the order which I received blue
3 cards. My first one is from Shonowa Villaloros.

4 I think if you sit next to Chris that
5 microphone works. It would appear you need to
6 speak directly into it, though, for your voice to
7 be picked up. And since I've got a blue card for
8 you, I'll relieve you of the spell-your-name
9 obligation and simply give this card to the court
10 reporter.

11 MS. VILLALOROS: Okay, thank you. Thank
12 you all for being here. I am a community member
13 up here in Wilmington. And I oppose the one-stop
14 licensing permitting process.

15 And I say this because as a resident
16 there is about five refineries in this community,
17 and I feel that there should be obstacles for them
18 to expand. Because a lot of our lives are, you
19 know, being affected by everyday pollution that
20 all of us inhale.

21 There's people in my family and friends
22 and just people in school that are suffering as a
23 result of it. They have allergies and asthma and
24 all sorts of health problems. And I just feel
25 like that there should always be a constant push

1 for the refineries to be responsible for the
2 environment and the pollutants that they put into
3 the air that we breathe every day.

4 Thank you.

5 PRESIDING MEMBER GEESMAN: I thank you.
6 And I think you've got strong agreement from both
7 Commissioner Boyd and myself in that regard. I
8 think we may differ as to whether we think state
9 government can provide a stronger focal point than
10 the existing mish-mash of local agencies presently
11 do.

12 But I think our objective is to insure
13 that there's a better enforcement law, and that
14 these permit applicants are held to a very high
15 standard.

16 MS. VILLALOROS: Thank you.

17 PRESIDING MEMBER GEESMAN: My next one
18 is Sylvia Garibey.

19 MS. GARIBEY: Good morning,
20 Commissioners.

21 PRESIDING MEMBER GEESMAN: Good morning.

22 MS. GARIBEY: My name is Sylvia Garibey
23 and I'm coming, -- J.C. Marquez (phonetic) can't
24 make it this morning, so -- he's for Coalition for
25 a Save Environment.

1 Anyway, I left you some literature that
2 he wanted me to give you. And he wanted me to let
3 you know that he had to go to a meeting and he
4 couldn't make it this morning, so he picked me. I
5 don't know why. First time I've been here.

6 Anyway, he wanted to make sure that you
7 were aware of the -- he has 13 points here, and he
8 wanted to make you aware that these points are for
9 petroleum infrastructure best permitting
10 practices.

11 Number one, the current permit allows
12 every refinery and storage tank facility to
13 pollute the public air. The public and
14 communities wants permits to include mandatory
15 requirements to use the best available technology,
16 which is BAT, when it becomes available. And
17 based on independent university research.

18 The petroleum industry has lied about
19 what BAT is available and fails to incorporate it.
20 For example, Kinder-Morgan tank storage facility
21 in Carson, California. We want all tanks to have
22 permanently sealed roofs and vapor recovery
23 system.

24 Number two. Current permits do not
25 require any significant mandatory air pollution

1 reduction. The public and community wants permits
2 to include a five-year plan to reduce air
3 pollution by 75 and a ten-year plan to reduce air
4 pollution by 90 percent.

5 Number three. Current permits do not
6 require full disclosure in reporting of petroleum
7 industry compliance to laws, rules, regulations
8 and permits. The public and community wants an
9 annual full disclosure of all violations and
10 noncompliances to include, but not be limited to,
11 number of notices of compliances; notices of
12 violations; number of equipment breakdowns; number
13 of fines, dollars amount of fines, and
14 settlements; number of repeat violations; number
15 of public complaints; number of lawsuits; number
16 of settlements; number of penalties, et cetera.

17 Number four. Current permits do not
18 require full disclosure and reporting of the
19 petroleum industry practice on purchasing,
20 selling, trading and exchange of credit, reclaim
21 ERCs, et cetera, in order to bypass doing
22 mitigation in the local community impacted and
23 reducing air pollution.

24 The public and communities want full
25 disclosure and reporting of any credit activity

1 the petroleum industry companies involved in and
2 wants the immediate termination of all reclaimed
3 or credit programs.

4 Number five. Current permits do not
5 require the annual disclosure of the amount of
6 air, water or land pollution a petroleum industry
7 company has emitted, regardless of the
8 circumstances. The public and communities want
9 full disclosure on an annual basis in a ten-year
10 chart of the air, water and land pollution a
11 company has emitted into the community.

12 Number six. Current permits do not have
13 mandatory community public health mitigation
14 requirements for public exposure to air, water and
15 land pollution. The public and communities want
16 local mandatory public health care mitigation and
17 establishment of a public health care trust fund
18 based on their percentage of industry contribution
19 and negligence.

20 Seven. Current permits do not have
21 mandatory community environmental mitigation
22 requirement for air, water and land pollution.
23 The public and community wants local mandatory
24 annual environmental mitigation for air, water and
25 land pollution and establishment of a public

1 environmental trust fund based on their percentage
2 of industry contribution and negligence.

3 Number eight. Current permits do not
4 require public hearings when a petroleum industry
5 company has violated any required compliance or
6 has polluted the community. The public and
7 community wants mandatory public hearings every
8 time a petroleum industry company has violated a
9 permit, law, rule, regulation, condition or
10 polluted the air, water or land.

11 Number nine. Current permits do not
12 require mandatory written public reports to be
13 prepared when they have violated a permit, law,
14 rule, regulation, condition or polluted the
15 community. The public and communities want
16 mandatory reports of all violations, penalties,
17 settlements and environmental air, water or land
18 incidents.

19 Number ten. Current permits do not
20 contain any significant sanctions or penalties
21 conditions for serious violation or repeat
22 violation. The public and community wants
23 stringent conditions that will significantly
24 prevent any violations or repeat violations,
25 including suspension of business and closure of

1 business.

2 Number eleven. Current permits do not
3 require real-time monitoring, measuring and
4 reporting of any air, water or land pollution
5 discharge. The public and community wants real-
6 time monitoring, measurement and reporting of any
7 and every air, water or land pollution discharge.
8 It is not the public's responsibility to be a
9 policeman and report problems. This is a
10 responsibility of the AQMD, ARB and EPA.

11 Twelve. Current permits do not have
12 requirements that allow the public sufficient time
13 to be notified and provide public comments on the
14 permits or environmental impact reports. The
15 public and community request a minimum of 90 days
16 advance public notice, a 90-day public comment
17 period, and notification be sent to every resident
18 within a ten-mile radius of the facility. Notice
19 shall be translated into the common language of
20 the community, and an ad be placed in every local
21 newspaper.

22 Thirteen. Current permits do not have
23 any requirements that a petroleum industry company
24 be 100 percent or majority owned by U.S. citizens.
25 The U.S. public wants no foreign ownership of U.S.

1 petroleum industry's company. The public wants no
2 foreign oil, gas or fuel source of price
3 manipulation of a business industry critical to
4 U.S. domestic fuel sources and product.
5 California can set any requirement they want.

6 Thank you.

7 PRESIDING MEMBER GEESMAN: Thank you.

8 Thank you very much, and --

9 MS. GARIBEY: I can't answer any more
10 questions.

11 PRESIDING MEMBER GEESMAN: Well, tell
12 Mr. Marquez we missed him, but that he was served
13 very well by --

14 MS. GARIBEY: Thank you. He had to go
15 to a meeting in L.A. Thank you.

16 PRESIDING MEMBER GEESMAN: I understand.

17 Okay, the next one I have is Jane
18 Williams from California Communities Against
19 Toxics.

20 MS. WILLIAMS: Good morning,
21 Commissioners. Commissioner Geesman, you did a
22 very good job of grilling the AQMD. I'm always
23 very impressed with your knowledge of the
24 environmental justice action plan. And your
25 knowledge about permitting processes.

1 As you know, I'm Jane Williams from
2 California Communities Against Toxics. I
3 represent a number of the different refinery
4 communities that are my members.

5 The issues around refinery permitting
6 and compliance are a constant source of paper in
7 my in-box. It's very clear that compliance issues
8 and the permitting issues at these refineries
9 could be improved.

10 However, the argument I hear the CEC
11 making is they could do a better job. And so my
12 question to you is how many power plants have been
13 sited in California since 1997, do you know?

14 PRESIDING MEMBER GEESMAN: Since 1997
15 I'm going to guess probably in the neighborhood of
16 30.

17 MS. WILLIAMS: Thirty power plants. Do
18 you know what kinds of communities those power
19 plants were sited in?

20 PRESIDING MEMBER GEESMAN: It's a broad
21 mix, and I would assume, based on my knowledge,
22 over the two and a half years that I've been on
23 the Commission, a larger mix of rural locations
24 than urban locations. Although in my direct
25 experience we've had several urban projects.

1 MS. WILLIAMS: Do you know how many EIRs
2 were done on those power plants?

3 PRESIDING MEMBER GEESMAN: Our process
4 is established under the Secretary of Resources'
5 authority as a CEQA-equivalent process. So, on a
6 CEQA-equivalent basis I'd say 30.

7 MS. WILLIAMS: So there were no
8 environmental impacts reports done, because you
9 guys have a CEQA equivalency?

10 PRESIDING MEMBER GEESMAN: That's
11 correct.

12 MS. WILLIAMS: Do you know how many of
13 those 30 were appealed to the Commissioners?

14 PRESIDING MEMBER GEESMAN: Under our
15 statute a Commissioner needs to be present at
16 every public hearing, so the process we go through
17 is a Committee of two Commissioners sits on each
18 case. That Committee makes a recommendation to
19 the full Commission. The full Commission then
20 acts on that recommendation.

21 MS. WILLIAMS: You have actually an
22 administrative appeal process for the siting of a
23 power plant that is unique in California.

24 PRESIDING MEMBER GEESMAN: That's right.

25 MS. WILLIAMS: How many of these 30

1 power plants were appealed under that unique
2 process?

3 PRESIDING MEMBER GEESMAN: The process,
4 itself, is unique. I wouldn't single out the
5 appeal, because --

6 MS. WILLIAMS: Well, the entire process,
7 but the appeal process is part of the uniqueness
8 of your siting process.

9 PRESIDING MEMBER GEESMAN: Then I'm not
10 certain what we're calling appeal. We have a
11 reconsideration provision. If that's what you're
12 asking about, I don't know the answer. I would
13 suspect it's about a handful.

14 MS. WILLIAMS: Okay.

15 PRESIDING MEMBER GEESMAN: I know during
16 the history of the Commission, which is 30 years
17 now, there have been ten cases of licensing
18 decisions actually appealed to the courts. And
19 that may be what you're driving at in the use of
20 the word appeal.

21 MS. WILLIAMS: Well, as you know, under
22 your CEQA-equivalent process, the only court you
23 can appeal to for the siting of a power plant is
24 the supreme court.

25 PRESIDING MEMBER GEESMAN: That's right.

1 MS. WILLIAMS: Do you know how many, say
2 in the last five years, of these power plants that
3 you sited, those siting decisions were appealed to
4 the supreme court?

5 PRESIDING MEMBER GEESMAN: I don't know,
6 but I would presume probably the majority of the
7 ten that I mentioned over the Commission's
8 history. Most of our siting volume has taken
9 place since the 1997 date that you were interested
10 in.

11 MS. WILLIAMS: My question was how many,
12 let's say of those ten decisions, how many were
13 appealed to the supreme court?

14 PRESIDING MEMBER GEESMAN: All ten were.

15 MS. WILLIAMS: All ten were appealed.

16 And how many --

17 PRESIDING MEMBER GEESMAN: No, I think
18 we're talking past each other again.

19 MS. WILLIAMS: Okay.

20 PRESIDING MEMBER GEESMAN: Ten decisions
21 of the 30 that I estimated have been appealed to
22 the supreme court.

23 MS. WILLIAMS: And how many of those
24 appeals did the supreme court accept?

25 PRESIDING MEMBER GEESMAN: I know the

1 Commission has never been reversed by the supreme
2 court. I don't know how many have actually been
3 accepted.

4 MS. WILLIAMS: I do. None. So when you
5 compare your process of involving the public and
6 the judicial review that that can have, and the
7 current process, which is not CEQA-equivalent, it
8 is subject to CEQA, and it is therefore subject to
9 review by the courts, this is one of the reasons
10 that the environmental justice community and the
11 environmental community in many of these
12 communities where these refineries are, oppose
13 changing the permitting process so that it solely
14 sits at the CEC.

15 Now, I've had many many conversations
16 with people that have gone through your process,
17 and have had power plants sited. And actually a
18 number of my members have been through that
19 process.

20 And I'd like to just highlight two of
21 those decisions that were made by the Commission
22 in the last couple years. One of them was the
23 siting of the Blythe Power Plant. One of those
24 rural power plants that you mentioned.

25 The Blythe Power Plant was appealed to

1 the supreme court, and the supreme court denied
2 the appeal. The Blythe Power Plant sits in Blythe
3 at the end of the airport. The community raised
4 concerns about where it sat, at the end of the
5 airport. It also raised concerns about the water
6 that was needed, as you probably remember. Large
7 orchards were purchased so that the groundwater
8 could be pumped to cool the plant.

9 So, when you look at the Blythe Power
10 Plant now, the Federal Aviation Administration is
11 saying that it either has to be moved or the
12 airport has to be moved. And the people in Blythe
13 have not benefitted from the siting of the power
14 plant there. Most of them were not hired to work
15 there. And, in fact, because the orchards were
16 purchased for the water, many farmworkers were
17 displaced. That's a rural power plant that you
18 sited.

19 Another power plant that you sited was
20 in Sun Valley. In fact, the Sun Valley site is at
21 the site of an old power plant that was shut down
22 in Sun Valley. As you may know, Sun Valley is an
23 area of special environmental justice enforcement
24 by Rocky Delgadillo (phonetic) who is the District
25 Attorney for the City of Los Angeles.

1 The residents of Sun Valley found out
2 about the siting of the power plant there after it
3 was already built. They did not know about any of
4 the permitting processes, either through the CEC
5 or through the AQMD.

6 Sun Valley is also home to a very large
7 landfill, many polluting facilities, and there's a
8 school nearby. This is a peaker plant. This
9 power plant is designed to kick in only in the
10 summertime when demand is high, and only in
11 summertime when the ozone levels in Sun Valley
12 often exceed the national ambient air quality
13 standards.

14 We are opposed, the environmental
15 justice community in California is opposed to
16 permit streamlining for refineries. We don't
17 think that the Air Quality Management District
18 does a good job, either on the permitting side, or
19 on the enforcement side.

20 We've been extremely involved with the
21 District and its creation of the environmental
22 justice workplan. We're hoping for improvements.
23 We're not saying that the AQMD does the best job
24 in the world. As far as we can tell from living
25 around these facilities, from commenting on title

1 5 permits, from looking at the huge kinds of
2 releases that come from these refineries into
3 these local communities, it's an area of one of
4 the most extreme cases of environmental justice in
5 California. But we do not believe that the
6 structure at the Energy Commission is going to be
7 any better.

8 So, thank you very much for your
9 opportunity to discuss this with you. And, again,
10 I applaud your staff's briefing, your staff's
11 preparation of you.

12 And, Commissioner Boyd, I can also tell
13 you that the reason we don't burn pet coke in
14 California is because it's a very dirty fuel. And
15 it's also the reason that we're opposing the
16 conversion technologies at the Integrated Waste
17 Management Board in turning waste into energy.
18 Because California is in violation in almost every
19 district in California violates the national
20 ambient air quality standards. So turning our
21 skies into landfills is just going to exacerbate
22 that.

23 Thank you for the opportunity to
24 comment. I'm happy to answer any questions you
25 might have.

1 PRESIDING MEMBER GEESMAN: Well, I
2 certainly thank you, Jane, for your comments and
3 sharing your opinion with us. I would really
4 encourage you and your clients in focusing on the
5 actual outcomes in permitting processes to direct
6 your attention at what can be achieved in the
7 administrative review. I think that's where the
8 decisions that most directly affect the public are
9 made.

10 And I wouldn't attach a lot of public
11 significance to victories in court, because I
12 think those seldom translate into actual
13 meaningful improvements that the public can feel.
14 They translate into improvements in process, but
15 I'm not certain that they have as direct an impact
16 on substance as the decisions made at the
17 administrative level.

18 And I would say that the Energy
19 Commission's record, being upheld ten times by the
20 supreme court, would suggest that, at least in the
21 supreme court's view, the Commission, during its
22 30 years has done a good job at applying public
23 health and safety standards and environmental
24 standards.

25 And my concern is, I tried to make clear

1 at the beginning of this workshop, is that the
2 existing process for reviewing refinery
3 modifications, and in particular, petroleum
4 storage and maritime facilities, is inadequate to
5 the task at hand and leaves the locally affected
6 communities ill equipped and under-armed in
7 dealing with the decisions that right now a
8 combination of local agencies are making.

9 I'm more comfortable with the South
10 Coast Air Quality Management District's discharge
11 of its responsibilities than I am with the local
12 land use agencies involved. And I'm not
13 suggesting that substantive standards be changed
14 at all, but rather than the existing process that
15 we have, be consolidated for an application
16 simultaneously of multiple jurisdictions permit
17 requirements.

18 MS. WILLIAMS: The citizens of Blythe
19 intervened vigorously in the siting of the power
20 plant in Blythe saying that it shouldn't be --

21 PRESIDING MEMBER GEESMAN: You've got me
22 at a disadvantage here because that took place
23 before I was on the Commission, so --

24 MS. WILLIAMS: But what I'm saying is
25 they relied upon the administrative process at the

1 CEC, and they have a power plant at the end of a
2 runway.

3 PRESIDING MEMBER GEESMAN: And what's
4 been reported to me by our staff is that the City
5 supported the location of the plant, and it's been
6 at the Commission's behest that the matter, after
7 licensing, has been brought to the attention of
8 the FAA and Caltrans to determine if corrective
9 measures should, in fact, be taken.

10 I'm not aware of the issue having been
11 raised at the administrative level.

12 MS. WILLIAMS: It was raised vigorously
13 at the administrative level. And as you say,
14 local land use planning agencies, including the
15 cities and counties, often don't make good land
16 use decisions.

17 But what you're saying to us is that you
18 can rely upon our administrative procedures to do
19 the right thing and protect, and these were the
20 words of Commissioner Boyd, public health and the
21 environment.

22 And what I'm saying is the CEC already
23 has a track record of trying to protect public
24 health and the environment. These are just two
25 specific power plant examples I gave you, one in

1 an urban area and one in a rural area.

2 And so when you're trying to convince
3 these communities that are already heavily
4 impacted, already they're the under of the
5 underdogs, you know, the poor minority communities
6 living around horrible sources of pollution. The
7 Torrance refinery emits 2 million pounds of air
8 pollution into the local community per year.
9 That's not including startup, shutdown functions,
10 and unmeasured emissions from flares and other
11 catastrophic incidents that take place there.

12 One of the previous speakers brought up
13 the application of BACT. Not one of the power
14 plants that I've reviewed in California that was
15 sited in the last few years has the best
16 achievable control technology, which is SCONOx.
17 Because somehow power plants manage to argue that
18 well, SCONOx might work well in Europe, it doesn't
19 work in California. Some sort of hemispheric
20 magnetic field or something.

21 I mean what we're looking for in the
22 environmental justice communities is we're looking
23 for a true process that seeks to protect the most
24 vulnerable among us, the poor minority children
25 and the elderly living in these communities.

1 We're looking for the application of science and
2 technology. And that's not what we're getting.
3 It's not what we're getting from AQMD, and it
4 certainly is not what we're getting from the
5 Energy Commission.

6 PRESIDING MEMBER GEESMAN: --
7 prescription for how to achieve that?

8 MS. WILLIAMS: If I was asked by AQMD --

9 PRESIDING MEMBER GEESMAN: How about if
10 you were asked by the Energy Commission?

11 MS. WILLIAMS: -- and by the Energy
12 Commission to come up with a prescription for
13 better refinery siting and expansion, I can tell
14 you the community would be very interested in
15 having that conversation.

16 The communities of --

17 PRESIDING MEMBER GEESMAN: Well,
18 consider yourself asked.

19 MS. WILLIAMS: -- and you're going to
20 hear from my other colleagues today that have been
21 representing and talking with refinery communities
22 specifically in Los Angeles for years.

23 Those demands are not new. And I think
24 Mr. Marquez did a good job through his emissary of
25 lining out some of those.

1 PRESIDING MEMBER GEESMAN: Well,
2 consider yourself asked.

3 MS. WILLIAMS: Thank you for the
4 opportunity to speak.

5 PRESIDING MEMBER GEESMAN: Thank you
6 very much.

7 Next one is Cynthia Babich. Del Amo
8 Action Committee.

9 MS. BABICH: Thank you for the
10 opportunity to be involved in the process. My
11 name is Cynthia Babich and I'm Director of the Del
12 Amo Action Committee. It's an environmental
13 justice group that was formed because of our
14 concerns of toxic waste from the two superfund
15 sites that surround our community in the
16 unincorporated L.A. County strip.

17 We are also a community who is downwind
18 from the Exxon Mobil Refinery in Torrance. And
19 through our education of ourselves and our
20 community on toxins and how they affect the body,
21 we came to understand the term environmental
22 justice. And it was very disconcerting to most of
23 us to find out that our communities had been
24 specifically targeted over the years.

25 And we worked very diligently to change

1 that trend. So anytime there's a process where
2 the public can be involved, we do try to be
3 involved. But we also will defend vigorously any
4 attempts to dissuade our involvement.

5 Recently the Exxon Mobil Refinery was
6 fined \$8.2 million by the AQMD. One of the
7 concerns, which I'm sure you can address here, is
8 that even though refineries are getting fined,
9 none of this money is going back into the impacted
10 communities. So the communities further suffer.

11 And when they do try to be involved many
12 times they don't really see any concrete changes.
13 And so that also keeps them from being more
14 involved.

15 Our Committee is a little bit different.
16 We have reviewed the title 5 permits for this
17 refinery. We were lucky enough to attend the
18 smokescreen school that was mentioned by Carol
19 earlier, which we found very invaluable. It puts
20 the tools in the hands of those people who are
21 directly in the frontlines and gives them more
22 confidence when they do do reporting, that they're
23 reporting in a manner that's consistent with the
24 agencies.

25 We have also been very involved in the

1 AQMD initiatives for EJ. We do go up to Diamond
2 Bar when we think it will be beneficial for them
3 to hear from our point of view. Mostly our
4 colleagues, like Jane Williams and Joe (inaudible)
5 go ahead and are the arrowpoint for our concerns.

6 I'm here today because I'm really
7 concerned that even though the AQMD process is not
8 perfect, it is moving in the right direction with
9 the EJ initiatives. It's a process that we see we
10 are gaining; the communities are actually winning
11 in a sense.

12 And I heard your comment that maybe the
13 AQMD does a better job than some of the other
14 districts. This may very well be true. But I can
15 only speak to my area. I think it's really
16 important that we have that public participation
17 that we've seen, and that we see being enhanced.
18 But also I really think that it's important that
19 we look at the local perspective. They know
20 what's going on and many times AQMD, who is taking
21 the lead in my area, where the problems are
22 through their notices of violation.

23 But we're also very concerned, as
24 environmental justice communities, that people are
25 not only looking at the one particular source

1 that's being reviewed, that particular day, but
2 also the cumulative impacts. The fact that our
3 areas are targeted as wastelands, and it's very
4 inviting for businesses to come in. Many times
5 we're painted as anti-business, which I don't
6 particularly think that we are.

7 We've done health surveys recently in
8 our community and one in four of the households
9 that we attend have children with severe asthma
10 problems. So when we talk about expediting a
11 process to let these existing refineries expand in
12 our already impacted communities, that literally
13 takes our breath away.

14 So we are opposed to the transfer to the
15 California Energy Commission of this one-stop
16 permitting process. We think it's great that you
17 want to be involved or engaged; you see there's a
18 problem. But we'd like to -- if you want to be
19 involved more, plug into the current process that
20 we have with AQMD, and get some kind of
21 standardization within that agency rather than it
22 being allowed to have the option of either going
23 through the city or local, and that requirement,
24 or going through the AQMD.

25 I think we have the same problem with

1 contaminated toxic sites. Many of them have the
2 option of either going through the Department of
3 Toxic Substances Control, which has a very good
4 public participation process and assessment of the
5 sites. Or going through the Regional Water
6 Quality Control District, which has a very poor
7 record.

8 So I hope my comments have been
9 beneficial. And, again, we do thank you for the
10 opportunity. But we'd really like the chance to
11 follow through with the AQMD and the initiatives
12 that are before us.

13 Thank you for allowing us to
14 participate.

15 PRESIDING MEMBER GEESMAN: Let me ask
16 you to focus on the land use side of that, because
17 as I've tried to make clear, I think many of our
18 concerns are more directed to the local land use
19 agencies than to the AQMD.

20 I believe I heard you to say you were
21 concerned in the toxic substances area with the
22 existing options that projects have to go through
23 a local land use agency, or through the state
24 Department of Toxic Substances Control, is that
25 right?

1 MS. BABICH: Yes.

2 PRESIDING MEMBER GEESMAN: Have you had
3 experience with the land use agencies in the
4 refining or petroleum infrastructure area?

5 MS. BABICH: When we are allowed to
6 participate, which is not very often, most often
7 we don't even know what's going on besides when we
8 see a flare or some kind of an upset, or one of
9 the nice little publications the refinery puts out
10 to the Torrance area.

11 Our area is the unincorporated County
12 strip, so we are a bit different in the sense
13 that --

14 PRESIDING MEMBER GEESMAN: You don't
15 really have a voice then, do you?

16 MS. BABICH: Not often. So I think what
17 I'm saying is we have a process now with the AQMD.
18 We've been working with them. Of course, we don't
19 appreciate everything that's done, but we see a
20 process. We see a lot of work that's been put
21 into looking at the impacts, environmental
22 justice-wise, to communities.

23 So I don't think it's appropriate for
24 anybody to be able to shop around to find the
25 least path of resistance for them meeting their

1 needs without looking at stakeholder processes
2 that bring everything together.

3 I think using DTSC there has been a
4 great effort by environmental justice communities
5 to also influence that agency.

6 So perhaps if we were talking about two
7 different crates of apples and oranges, that might
8 be different. But with the Department of Toxic
9 Substances Control a lot of the benefit goes to
10 them being receptive to the concerns that
11 communities have raised and allowing them to move
12 forward and educate ourselves, as well as educate
13 those who are making these really tough decisions.

14 PRESIDING MEMBER GEESMAN: Thank you
15 very much.

16 Next one is David Wright. Pacific
17 Energy Partners.

18 MR. WRIGHT: Good morning. My name's
19 David Wright. I'm the Executive Vice President of
20 Pacific Energy Partners, L.P. That's spelled
21 David, D-a-v-i-d, Wright, W-r-i-g-h-t.

22 My associate, Dominic Ferrari, who is
23 also here today, has made several presentations to
24 the California Energy Commission, as well as your
25 staff, in the past year. This is regarding the

1 deepwater petroleum import terminal that we are
2 currently working on here in the Port of Los
3 Angeles.

4 It's an interesting process today, and
5 some of my prepared statements are going to change
6 a little bit, based on some of the comments that
7 I've heard while I was sitting here.

8 One thing, I do want to thank the
9 Commission for coming to the Port, the harbor
10 area. I think your presence here today is a
11 reflection of the seriousness of the petroleum
12 marine import situation facing California today.

13 One of the things that we've determined
14 here, as an industry representative, is that
15 there's a tremendous need for imported energy,
16 particularly in northern and southern California.
17 And over the next ten years we expect to see
18 demand for an additional 400,000 barrels a day of
19 imported crude oil into the Los Angeles area.

20 Our projects, like a number of similar
21 projects, face serious multifaceted challenges.
22 These challenges include the general demand for
23 Port land; this is for our needs, as well as all
24 the other containers and other groups. Concern
25 from communities that are located around the Port

1 and the impacts on the communities by the Port
2 activity. I think that's been represented here
3 today.

4 Impacts on the air, water and other
5 types of pollution, in general, in these kinds of
6 activities. I think lastly most important, I
7 think more to the direction of what you're talking
8 about today is the conflict between all the
9 different groups and the different agencies that
10 have the ultimate authority to prevent this new
11 infrastructure.

12 I agree with a lot of the comments that
13 have been made by a number of the environmental
14 groups that are concerned about representation of
15 their groups and the constituents and the people
16 that they serve. And I think that's a fair
17 assessment, that there's been problems in the
18 past.

19 It's particularly a problem for land use
20 groups like the Port of Los Angeles, Port of Long
21 Beach, who, through the State Lands, were
22 entrusted the use of the Ports to represent, you
23 know, the entire State of California, as well as
24 address the community issues.

25 And I think it's very important that

1 state groups like yourselves, State Lands, and
2 other agencies work together to help clarify the
3 situation of these authorities and who has
4 ultimate permitting.

5 My feeling is and my concern is that if
6 these matters are not clarified and resolved soon,
7 a number of projects, such as our project, are
8 likely to be mired down in complicated lawsuits
9 resulting in continuing long-term delays in the
10 development of the required improvements in the
11 state's infrastructure. It's a critical issue
12 that needs to be resolved.

13 I also want to comment about some
14 earlier comments from the AQMD, Carol, the
15 representative of AQMD, noting that our company
16 has been working with the AQMD. We met with their
17 executive staff. We found that they are very open
18 and willing to try to expedite projects in any way
19 that they can, that the compliance with all the
20 regs and rules that they need to live with. I
21 think that's a good example of the kinds of things
22 that can be done if the process can be clarified
23 and simplified.

24 Lastly I just want to say, look, there
25 are no simple answers to these complicated

1 problems. But we think it's imperative to the
2 well being of the state that these issues are
3 brought forward and somehow this ultimate issue of
4 authority and permitting ability is resolved to
5 the benefit of all people in the state.

6 Thank you.

7 PRESIDING MEMBER GEESMAN: Thank you. I
8 guess the area that our report in 2003 focused the
9 most intently on was the sequential nature of the
10 existing permit process. And we suggested that
11 for significant new projects that the power plant
12 licensing process might be a good analogy. I
13 emphasize might. And I also think it's probably
14 more productive not to think in terms of the
15 California Energy Commission has that permitting
16 agency, so much as state government. Perhaps it's
17 the Energy Commission, perhaps it's the ARB,
18 perhaps it's the Department of Toxic Substances
19 Control, perhaps it's the Department of Motor
20 Vehicles, I don't know.

21 That's less important than the notion
22 that there are statewide interests at stake. And
23 that the state, in the power plant siting area,
24 for 30 years has chosen to consolidate all state
25 and local permits in a single forum with at least

1 an effort to make those decisions within a
2 specified timeframe. And with a direct judicial
3 review by the state supreme court.

4 And I believe our 2003 report basically
5 asked the public the question, what's wrong with
6 this picture; why doesn't this template lend
7 itself well to addressing large petroleum
8 infrastructure projects. And I know there are a
9 number of imperfections to that model, and it
10 wasn't suggested as being a precise fit.

11 But I guess the question I would pose to
12 you and other members of the industry, members of
13 the public here today is why shouldn't we
14 consolidate all of the existing state and local
15 requirements, not change a single one of them
16 substantively, but consolidate them all into a
17 common forum, and attempt to empower one agency,
18 of statewide significance, to make those
19 decisions.

20 MR. WRIGHT: I think that question --
21 the answer is beyond me in terms of knowing the
22 answer, but something like that, when you come to
23 these critical infrastructure that's important to
24 all the citizens of California, would be very very
25 helpful, I think, for all parties involved.

1 I mean if everyone knew where the
2 playing field was, and all the different parties,
3 all the stakeholders had an interest in it, could
4 be brought together at one time in one place and
5 the issues aired in a way that everyone can see
6 all the different pieces, I think it would be a
7 much much better process than the one today.

8 Today is just mired with pitfalls and
9 areas that different concerned groups are not
10 going to be represented. The potential for
11 litigation is on every place you turn. And
12 unfortunately, all the needs need to be met, the
13 community and the industry and the state.

14 But I think, in general, the idea is a
15 very good one.

16 COMMISSIONER BOYD: I can't say too much
17 because every time I turn on my mike it blows the
18 system here, but I want to take this opportunity
19 to thank Commissioner Geesman for his question and
20 you for your response. Because one thing he put
21 clearly on the table is that the CEC process was
22 only put out there as an example.

23 And our being here is an effort -- and
24 previous meetings -- an effort to try to focus
25 some light on this issue that you've pointed out

1 as an issue that we identified as an issue. And
2 not to participate in a bureaucratic grab of --

3 MR. WRIGHT: I think if you move that
4 other mike it will cut out the feedback.

5 COMMISSIONER BOYD: They're supposedly
6 different systems, but perhaps. In any event, our
7 being here is not to engage in a grab by the CEC
8 of permitting authority, as much as it is to focus
9 attention on an issue that we think needs some
10 resolution one way or another.

11 So I appreciate the exchange, and I
12 appreciate your attempt at an answer, as you
13 mentioned. There's some members of this audience
14 who wouldn't believe that statement, so I choose
15 not to make it, except at a time when it's been
16 put out on the table.

17 I just caution people that we're just
18 trying to shine some light on an issue that we
19 think needs to be resolved. We're not trying to
20 grab a process or take it away from other people
21 necessarily, if collectively, in all these various
22 areas and hearing from all the stakeholders, we
23 can find, perhaps, a better way to deal with the
24 process and even improve the protection of public
25 health and the protection of the environment.

1 So, just felt that needed to be stated.

2 MR. WRIGHT: Thank you.

3 PRESIDING MEMBER GEESMAN: Thanks very
4 much.

5 DR. TOOKER: I'd like to ask one
6 followup question. David, given your involvement
7 with the Port and project development, I couldn't
8 quite understand whether you're saying the issues
9 you feel are permitting issues in lack of
10 jurisdiction and clarity, or whether it also
11 involves issues of planning and decisionmaking
12 about the kinds of uses that the Port commits to
13 going forward.

14 MR. WRIGHT: Here, again, that's a
15 complicated question. But I think there's several
16 different facets of the issue that need to be
17 addressed. And one is just the overall longer
18 term Port planning.

19 Ports are like other entities, you know,
20 they're going to try to optimize what looks best
21 within their own view. And I don't know that the
22 ultimate long-term Port planning process has been
23 as thoroughly thought through in this longer term
24 view as perhaps it should.

25 I think the other issue is that there's

1 been, as in the case of the refineries, the
2 communities and the Ports were fairly separately,
3 you know, many years ago. And now they've grown
4 close together. So the impact of one on the other
5 has been intensified, and it's been reflected, I
6 think, in a lot of comments of the people here
7 today.

8 And I think that just means that it
9 makes it even more important to do the proper
10 long-term planning in terms of what the
11 infrastructure needs will be.

12 I think one of the dangers today, or one
13 of the issues that we see is there's these pseudo-
14 government groups, for example the City of L.A.
15 has created neighborhood councils. It's a way
16 that different people can voice their opinions on
17 different situations and impact their community.

18 The problem is that it's generally a
19 very small group of people, like 10 or 12 people,
20 represent a fairly significant portion of the City
21 or part of the City. They'll have a meeting, not
22 very well attended; two or three people will take
23 the lead and they have an issue they'll bring
24 forward.

25 And then that becomes the headlines in

1 the newspaper the next day. The Neighborhood
2 Council, you know, defeats, or opposes. And it's
3 an implication that the community, in general, is
4 against this thing. What it is is generally the
5 people that took the time to go to the meeting,
6 and you know, made their voice clear.

7 I don't think it fairly reflects the
8 interests of all the people when these sorts of
9 things happen. And I think it creates a forum
10 that the newspapers use to create different
11 issues. And it isn't, in the longer term, serving
12 the ultimate public good.

13 The public good that needs to be served
14 is these issues with the people's public health,
15 the impacts on their livelihood, the impacts on
16 their living, how that can work together with the
17 industrial infrastructure that needs to be there
18 to serve them. And how we can bring that together
19 in a way that it can be properly aired and
20 properly balanced is the issue.

21 And there's no simple solution, but I
22 think the way the process is working today is not
23 working well, and I think in the case of the Port
24 of L.A. it's more of a political issue, the way
25 it's structured, versus, say, the Port of Long

1 Beach.

2 These are things that have developed
3 over time with the city charters, and it's
4 difficult to change those. But it's something
5 that needs to be considered, you know, as you look
6 at the bigger picture of how these needs are
7 ultimately going to be served.

8 I hope that answers your question.

9 DR. TOOKER: Thank you.

10 PRESIDING MEMBER GEESMAN: Thanks for
11 your testimony.

12 MR. WRIGHT: Yeah, thank you.

13 COMMISSIONER BOYD: Thank you.

14 PRESIDING MEMBER GEESMAN: My next card
15 is Tim Grabiell from NRDC. I hope I pronounced
16 that name correctly.

17 MR. GRABIEL: Good morning. No, you did
18 not pronounce it right, and it's actually been the
19 bane of my existence, the name Gabriel. It's
20 Grabiell.

21 I'm here on behalf of the Natural
22 Resources Defense Council, where I'm an attorney.
23 As you probably know, the Natural Resources
24 Defense Council is an environmental organization
25 of nationwide scope of over 600,000 members. I

1 think we have over 100,000 here in California.

2 I want to make some general comments and
3 I'll try and keep it brief. One of the first
4 points that I want to mention has to do with CBEs,
5 the Communities for a Better Environment, speaking
6 shortly, their attachments to the comments they
7 submitted the last round of permit streamlining
8 for this.

9 It is our belief that this Committee
10 must endeavor to be as inclusive and responsible
11 to community concerns as possible. And this would
12 include not only recognizing the legitimate
13 concerns of the community, and responding in good
14 faith to these legitimate health and environmental
15 considerations and concerns, but also it is
16 necessary to be transparent and accessible.

17 Being a transparent and accessible
18 government body by providing access to documents,
19 notice of meetings and opportunities to comment.

20 And I just want to say one example of
21 the lack of transparency and accessibility, CBE's
22 comments submitted on July 19, 2004, in response
23 to the CEC's June 28, 2004 siting Committee
24 workshop to investigate the state's petroleum
25 infrastructure did not include its insightful and

1 educational attachments. All other comments
2 submitted with attachments did include them except
3 for CBE's.

4 Now we could speculate on why this may
5 be, but let's just say that these attachments
6 adequately demonstrated conflict of interest,
7 predisposition and industry influence.
8 Nonetheless, the community and the people have the
9 right to have access to these attachments in
10 forming their opinion on the subject.

11 A little more specifically, in no way
12 must we remove local control. In no way. The
13 South Coast Air Quality Management District,
14 despite its flaws, has, on this issue, done a much
15 more satisfactory job than the CEC has done on
16 power plants, in taking into account the numerous
17 considerations that petrochemical facility siting
18 and expansion entails.

19 These numerous considerations are
20 multiple, but some are the emission of
21 carcinogenic and toxic chemicals, which pose
22 humongous or large risks to workers, the public,
23 the environment in EJ communities.

24 AQMD has developed the relevant
25 experience and people working with AQMD have come

1 to make AQMD more responsive. And we should not
2 just throw this out.

3 It is not as simple as CEC seems to
4 imply, saying that we need gasoline and diesel,
5 therefore we must identify petrochemical
6 streamlining opportunities. I believe, and we
7 believe, that this is irresponsible, a breach of
8 public trust and unnecessary without compromising
9 a great deal that has been learned to date.

10 The AQMD should be rewarded for its
11 growth, for its evolution, not devolve the
12 decisionmaking authority.

13 Moreover, AQMD, unlike the CEC, is an
14 accountable governmental agency directly
15 responsible to its constituents and affected
16 individuals. It operates within this basin in
17 close proximity, although Diamond Bar is quite far
18 from this location, through the people that are
19 affected by its decisions.

20 A proposed devolvement of power from
21 AQMD and granting of power to CEC, we believe, is
22 undemocratic because of the nature of CEC, and
23 would essentially disenfranchise the local
24 population. If we do believe and maintain these
25 ideals of participatory democracy, we have to

1 provide these opportunities for access and ability
2 to influence.

3 Public participation is of utmost
4 importance, in addition to all the other things
5 that removal of authority from AQMD would do. It
6 would stifle and essentially squash public
7 participation. Rather than have the affected
8 public, those who live, breathe, work, play and
9 pray among the emissions and pollutants, rather
10 than have them be able to influence and
11 participate in the process in a meaningful way, we
12 will have an insider industry game in which the
13 problems that we face today will be worsened by
14 the minds that created them.

15 We must uphold the opportunity for
16 participation, not remove them. And we must
17 beseech public participation and not shun it.

18 As for CEQA, the CEQA review must be
19 preserved. CEQA provides notice requirements,
20 opportunity for public participation, engages
21 stakeholders in dialogue and discussion in the
22 form of commenting period and response to
23 comments. In addition, CEQA insures a hard look
24 at alternatives, and provides opportunity for
25 judicial review.

1 Refineries and related facilities must
2 not be exempt from the very Act designed to
3 prevent irresponsible growth with disparate and
4 unknown impacts.

5 I would like to reiterate AQMD's
6 differences between power plants and refineries,
7 drawing parallels is baseless and highlights a
8 fundamental misunderstanding of the processes and
9 challenges that refineries pose environmentally
10 and public health-wise. And at the community
11 level.

12 CEC's processes are not equivalent to
13 those provide by AQMD and under CEQA. And I'd
14 like to reiterate what Jane Williams had to say on
15 the subject, as well.

16 Finally, one last point. Administrative
17 review, contrary to what you state here, in my
18 experience is not adequate and comparable to
19 judicial review. Concurrently it can help to make
20 it a better process, but having solely
21 administrative review in lieu of judicial review
22 has not been a very beneficial thing in our
23 experience.

24 Those are my comments today. Thank you
25 for the opportunity to comment.

1 PRESIDING MEMBER GEESMAN: Have you had
2 any experience with the local land use agencies
3 dealing with petroleum infrastructure-related
4 issues here?

5 MR. GRABIEL: Our organization has a
6 wealth of experience. I, personally, have dealt
7 with local land use agencies in other contexts
8 with the specific refineries that are going under
9 review right now, that have been trying to expand,
10 like Conoco Phillips, for example.

11 I would have to consult some of the
12 people that have been working on it from our
13 office. And I'd be happy to include that in any
14 written comments that we may submit before
15 February 10th.

16 PRESIDING MEMBER GEESMAN: Yeah, I'd
17 encourage you to focus on that particular
18 question. As I've indicated in several comments,
19 I don't think that the concern that we have
20 expressed is focused as much with the AQMD and its
21 discharge of its responsibilities or its lead
22 agency, as it is in those instances where it's
23 not. And where the local land use agency is the
24 lead agency for CEQA purposes.

25 MR. GRABIEL: Well, then perhaps that

1 speaks to increased AQMD involvement and
2 participation --

3 PRESIDING MEMBER GEESMAN: Perhaps it
4 does.

5 MR. GRABIEL: -- as the lead agency, as
6 opposed to removal.

7 PRESIDING MEMBER GEESMAN: Perhaps it
8 does.

9 MR. GRABIEL: But I know that CBE will
10 probably be speaking extensively on the subject.

11 PRESIDING MEMBER GEESMAN: And Chris, do
12 you know what he's referring to in terms of the
13 attachments to CBE's earlier statement?

14 DR. TOOKER: No, I don't have the
15 details on that. I've written it down. I'm going
16 to have to follow that up when we get back to the
17 Commission.

18 PRESIDING MEMBER GEESMAN: Mr. Grabiell,
19 do you happen to have those with you?

20 MR. GRABIEL: Yesterday I tried to have
21 access to them on the internet, but they weren't
22 there, were not posted along with the other
23 comments that did have attachments.

24 I think contacted CBE and was not able
25 to get them before today.

1 PRESIDING MEMBER GEESMAN: Okay.

2 MR. GRABIEL: But, no, I don't have them
3 with me. They were submitted, though.

4 PRESIDING MEMBER GEESMAN: Well, that's
5 what I want to make certain of, that if we still
6 have them, if they are, in fact, posted. My
7 concern is if we don't have them where do we turn
8 to get them so that they can be posted.

9 MR. GRABIEL: You can turn to me.

10 PRESIDING MEMBER GEESMAN: Okay.

11 MR. GRABIEL: Or general CBE.

12 PRESIDING MEMBER GEESMAN: Okay. Thank
13 you very much.

14 My next card is Jim Schepens from
15 Oiltanking Americas.

16 MR. SCHEPENS: Good morning. I am Jim
17 Schepens. I am the Vice President for Business
18 Development for Oiltanking in the Americas. We
19 currently have three terminals operating in the
20 United States. We are the second-largest
21 independent terminal company in the world. We
22 have approximately 70 terminals in 20 different
23 countries.

24 Oiltanking is prepared to make
25 substantial investment in California to permit,

1 build and operate state-of-the-art infrastructure.
2 And that includes docks, tanks and connecting
3 pipelines.

4 At the present time we're actively
5 involved with the Port of Long Beach in a crude
6 berth in the Port for a dock, tanks and pipelines.
7 We're also looking at other greenfield sites and
8 potential acquisitions in California.

9 At the same time Oiltanking, as with any
10 company doing business in California, has limited
11 capital. And that limited capital is looking for
12 its best use. If California makes the permitting,
13 building and the operation of logistics facilities
14 prohibitively difficult or expensive, I think one
15 of three things may happen.

16 One, the project gets built; the higher
17 costs are ultimately passed along to the public in
18 the form of higher goods and services.

19 Two, the capital available to be
20 invested in California goes elsewhere, where there
21 is a more attractive use for that capital.

22 Or, thirdly, the companies that are
23 operating in California bail out. They sell their
24 assets; the net result of that typically is a
25 consolidation of the infrastructure, fewer

1 companies, less competition, which ultimately, I
2 think, is bad for the consumer.

3 Oiltanking doesn't mind tough
4 regulations. We are building a greenfield
5 terminal in the Netherlands today that will
6 probably meet the most stringent regulations in
7 the world. What we have a problem with is the
8 unknown. The unknown in terms of the laws,
9 regulations or processes.

10 Thank you.

11 PRESIDING MEMBER GEESMAN: Thank you
12 very much. Next comment is James Holland, Los
13 Angeles Export Terminal.

14 MR. HOLLAND: Good morning, again. I
15 have given testimony with you before. First I'd
16 like to thank Dave Wright, even though we're
17 competitors in many respects. I think he did a
18 very good job of expressing industry's concerns,
19 and our willingness to work with participants from
20 the public.

21 Our problem is that we're having
22 difficulty getting projects permitted. And so
23 what I'd like to do is address more specifically
24 LAXT's or Los Angeles Export Terminal's immediate
25 concern now.

1 Since 1998 LAXT has discussed petroleum
2 infrastructure development with the Port of Los
3 Angeles. The Port Staff has consistently denied
4 LAXT and its major partners the opportunity to
5 develop terminals at LAXT's facilities in the Port
6 of Los Angeles.

7 While denying LAXT, the Port has
8 discussed utilization of LAXT's property with
9 other companies for similar or identical uses that
10 LAXT has been denied.

11 On October 28, 2003, LAXT submitted an
12 application for development permit for a crude oil
13 terminal in the Port of Los Angeles using LAXT
14 properties. The application has been modified to
15 include clean fuels and supplemented twice in
16 response to questions by the Port.

17 The Port deemed the application complete
18 for purposes of initiating the environmental
19 assessment on July 2, 2004. At that time the
20 project was put on hold by the Port pending
21 evaluation by the Board of Referred Powers of the
22 City of Los Angeles. As of this date, the Port
23 Staff is still unable or unwilling to have even a
24 rudimentary commercial discussion with LAXT that
25 would allow the proposed project to proceed.

1 The environmental evaluation is on hold.
2 In 15 months since the formal application by LAXT,
3 the Port, in spite of its clear legal mandate to
4 promote commerce for the benefit of the citizens
5 of California, has stonewalled LAXT's petroleum
6 infrastructure developments.

7 Any assistance that this Board or the
8 Energy Commission can provide to get the Port of
9 Los Angeles, and other regulatory agencies, as I
10 sit here this morning I hear concerns from both
11 sides. I think consolidation is a good idea
12 because this piecemealing where we're stymied by a
13 single agency is not good.

14 And I would agree with Oiltanking's
15 comments, if we can't get it built the money will
16 go elsewhere.

17 Thank you very much for the opportunity
18 to address you.

19 PRESIDING MEMBER GEESMAN: Thank you.

20 COMMISSIONER BOYD: Thank you.

21 PRESIDING MEMBER GEESMAN: Next one is
22 Skip Baldwin.

23 MR. BALDWIN: Good morning and thank you
24 for the opportunity to speak before you. I am
25 Skip Baldwin, cofounder of the Wilmington Citizens

1 Committee. I am a founding member of the PACP,
2 Port Advisory Committee to the Port. Right,
3 Dennis? And a few more titles. One of those
4 titles happens to be founding member of the
5 Wilmington Neighborhood Council.

6 And I've seen some interesting comments
7 here this morning. And I just want to touch on
8 two other things before I get along to them.

9 We're encouraged because we hear that
10 the AMQD (sic) is cutting back on emission credits
11 for crushed cars. We think that when cars are
12 crushed, credits are issued, then they're crushed
13 someplace else and they come down here, and
14 they're used for projects that give us emissions
15 and pollutions.

16 I don't know all the details, but I
17 think that the recent Kinder-Morgan project here
18 on putting those tanks up in southeast Carson
19 might be an example. Apparently the best
20 technology available is used to permit those tanks
21 to be in there, and yet they still had to gather
22 those emission credits. And that tells me that
23 those tanks are still emitting or they wouldn't
24 need those credits. That's one issue.

25 The other issue, my understanding is

1 that the reason that there wants to be a change by
2 the California Energy Commission in the permit
3 processing is that the Port presents a bottleneck.
4 And with all its permitting and stuff that they
5 need to do here, it presents a bottleneck. And
6 therefore they want to eliminate as many
7 permitting processes as they can here, and simply
8 streamline it. And then if there's any objections
9 to it, you have to go to Sacramento to take care
10 of the matter. And it's only appealable to the
11 court there. That's just my understanding of it.

12 Now I should go on to some other
13 projects. You heard comments about the
14 neighborhood councils from Mr. Wright. And I
15 represent 100-and-some-odd people on our
16 neighborhood council here. And I specifically did
17 not campaign and my statement was if the people
18 want me to work for them, I will be on the
19 neighborhood council. They had to stop their work
20 and come out and vote on me citywide, Wilmington
21 City-wide to get on that neighborhood council.

22 Just had a meeting last night, and by
23 the way while I'm on this subject, you people
24 here, you're stakeholders in the Wilmington
25 Neighborhood Council, you're stakeholders. And

1 the reason you are is because when we set this up,
2 we made it as inclusive as possible. If you
3 transact business, as you do right here right now,
4 you have a voice, you're a stakeholder.

5 The Wilmington Neighborhood Council has
6 approximately 23 members. It has residents, it
7 has business, industry. We try to -- has the
8 Port, which has a direct appointment to it. We
9 have included everybody, I think, that walk the
10 streets of Wilmington is in it.

11 As an example, we don't have meetings
12 with two or three people in them. We have, as I
13 say, 23 seats approximately. Last night we had a
14 full house. We talked over issues such as Port
15 issues. We talked over a large new medical
16 facility to be built in Wilmington. We had four
17 Port issues which included air quality issues.
18 And I'm going to -- going to this meeting, I'm
19 going down to go to another Port meeting this
20 afternoon, which is going to review the past EIRs
21 and things that have been done on these projects.

22 So I have a tiny bit of knowledge about
23 this. And I think those are my main concerns.

24 We did have a gentleman here from LAX.
25 They have previously appeared before the

1 Wilmington Citizens Committee. And I think that
2 they're just, themselves, are mired in so many
3 problems that it doesn't really come into
4 consideration here. That's due to themselves and
5 their own lawsuits.

6 Do you have any questions for me,
7 please?

8 PRESIDING MEMBER GEESMAN: No, but I
9 would clarify your mis-impression about the way
10 the Energy Commission conducts its power plant
11 siting cases. We're required by law to have staff
12 workshops and Commission or Committee --
13 Commissioner Committee hearings in the local
14 community where a power plant is apply for, and a
15 Commissioner must be present at all public
16 hearings where evidence is taken. So those aren't
17 decisions or hearings that are isolated to
18 Sacramento.

19 MR. BALDWIN: We won't be shorted any
20 hearings under the -- if any new rules are
21 established?

22 PRESIDING MEMBER GEESMAN: Not if our
23 power plant example is used. The Commissioners
24 are all gubernatorial appointees, and when the law
25 was established in 1974 it was felt that the

1 decisions about power plants were sufficiently
2 important from a societal standpoint that
3 gubernatorial appointees ought to be forced to sit
4 there in public hearings in the locally affected
5 communities and make their decisions there.

6 MR. BALDWIN: I was responding
7 particularly to the importation of oil and to that
8 nature. Not the power plants.

9 PRESIDING MEMBER GEESMAN: Yeah, and we
10 don't have jurisdiction over the importation of
11 oil.

12 MR. BALDWIN: Thank you so much.

13 PRESIDING MEMBER GEESMAN: Thank you for
14 your comments.

15 My next one is Greg Shipley.

16 MR. SHIPLEY: I'm Greg Shipley; I'm
17 President of Waste to Energy, which is an ethanol
18 producer. And I'm also representing the Bio
19 Energy Producers Association. I'm the Board of
20 Directors there; the president is ex-Senator David
21 Roberti.

22 Maybe we're a little out of place here,
23 but we do consider ourselves to be part of the
24 transportation fuel infrastructure. Our purpose
25 in being here today is to also talk about

1 permitting.

2 Since we are a new technology, there are
3 infrastructure problems with the California
4 regulations, one board's regulation as opposed to
5 another board's regulation.

6 The board that I'm talking about is the
7 Integrated Waste Management Board. We do gather
8 our feedstock from the waste stream. For
9 instance, with my technology we're capable of
10 pulling up to 3 billion gallons of ethanol out of
11 the waste that's deposited in landfills right
12 now. That's not including any of the
13 agricultural stuff or any of that sort of thing.

14 So we can represent a large portion of
15 the ethanol that's required in California right
16 now. There's a transfer station down the street,
17 BFI. That's capable of putting out 15 million
18 gallons per year. It goes in and it goes out.

19 We're an extremely environmentally
20 friendly industry. But the problem is we cannot
21 co-locate where our feedstock is. And I would
22 like to suggest to the California Energy
23 Commission that we would love to have you take
24 over to a one-stop shop on the permitting issues.
25 That sounds like a terrific idea to us.

1 But we do have some problems in that
2 permitting area. We do not have any problems
3 getting permits for the air quality. That's not a
4 problem for us. The problem is locating next to
5 our feedstocks. And you have these feedstocks
6 everywhere where there are terminals in
7 California.

8 So we can offer just-in-time delivery on
9 ethanol products and we also, as a secondary
10 product, we also produce electricity. We're
11 capable of running our own plants and exporting
12 electricity also.

13 So that said, I would just like to
14 encourage you to interface with the Integrated
15 Waste Management Board and possibly help
16 coordinate, if we can contact you. Mr. Roberti is
17 introducing a bill into the Legislature this year,
18 and we'd like to have some contact with the
19 Commission.

20 PRESIDING MEMBER GEESMAN: Good. We'll
21 take a very careful look at it. My recollection
22 is Mr. Roberti is a former member of the
23 Integrated Waste Management Board.

24 MR. SHIPLEY: That's correct. As a
25 matter of fact, he was one of the original

1 sponsors or authors of AB-939, which actually
2 restricts us now from participating. And he said
3 if they ever knew that there was technology like
4 this coming down the road, they never would have
5 put in those restrictions. So he's trying to make
6 amends right now.

7 PRESIDING MEMBER GEESMAN: Well, I
8 suspect his statement will be considered pretty
9 credible, given the source.

10 MR. SHIPLEY: Thank you very much; I
11 appreciate it.

12 COMMISSIONER BOYD: We'll be in touch.

13 PRESIDING MEMBER GEESMAN: Thank you.
14 John Schaefer.

15 MR. SCHAEFER: Good morning. My name's
16 John Schaefer and I'm a resident of San Pedro, and
17 I hold a lot of titles, myself. A lot of -- but
18 I'm primarily here on my own behalf.

19 I wasn't going to speak at this thing,
20 but as some of the testimony I just wanted to back
21 some of that stuff up -- back what was said up.

22 As an active community member, one of
23 the problems I perceive my job is, as a
24 representative for pile-drivers, bridge, dock and
25 wharf builders, and building and construction

1 particularly in the Port area, and particularly
2 infrastructure, freeways and so forth.

3 One of the problems is that there are so
4 many different committees, review boards, you name
5 it, that it almost becomes a shell game. You
6 know, you can go to a meeting every day of the
7 week if you are concerned about what's going on
8 with the Port of L.A. right now.

9 And the one meeting that you miss is
10 going to inevitably be the one in which the
11 decision is made. And it's true, some lean one
12 way, some lean the other way, and the newspapers
13 who want to find the greatest controversy will
14 inevitably report on the ones on either the left
15 or the right or the up or the down, whichever way
16 you want to do it.

17 So I think the focus of your discussion
18 today about trying to create one forum is
19 important. Whether that one forum is locally
20 based, you know, or something, there has to be
21 some kind of consolidation.

22 And that would allow the people the
23 opportunity, working people, you name it, people
24 who have other things other than being political
25 junkies, so to speak, to come to a forum and

1 express their views.

2 I think this is very very important. My
3 mother passed away from asthma, you know, and I
4 understand the air quality is very very important.
5 And I think we need to always try to build things
6 as safe as possible.

7 But in building those activities, at the
8 same time we can't get away with just not doing
9 anything about it. The infrastructure of the
10 petroleum industry, the infrastructure of the
11 State of California is just inevitably going to
12 get older. And something needs to be repaired,
13 sometimes things need to be replaced.

14 And unfortunately from what my
15 viewpoint, what we've done is we've stopped
16 everything and felt like we've accomplished
17 something. And I'm very very nervous about the
18 future where we're at.

19 Thank you for your time, appreciate it.

20 PRESIDING MEMBER GEESMAN: I thank you
21 for your comments.

22 Okay, we're going to turn then to the
23 next portion of our agenda and hear from
24 Communities for a Better Environment. I think, as
25 I understand it, you have a PowerPoint --

1 MR. EICHWALD: No. We don't have a
2 PowerPoint today. Good morning. My name is
3 Augustine Eichwald, that's A-g-u-s-t-i-n E-i-c-h-
4 w-a-l-d. I'm with Communities for a Better
5 Environment. I work in the Wilmington area. And
6 I'm going to read some of our organization's
7 concerns.

8 The California Energy Commission, CEC,
9 proposes a one-stop licensing permitting process
10 for petroleum infrastructure, including
11 refineries, import and storage facilities, and
12 pipelines. The CEC claims that if there are fewer
13 obstacles to expanding then there will be more
14 expansions of oil refineries and related
15 infrastructure.

16 To expand the petroleum infrastructure,
17 in quotes, the CEC recommends changing to a one-
18 stop, in quotes, permitting system like the one
19 currently used for power plants.

20 For power plants the CEC is the agency
21 responsible for reviewing, assessing and granting
22 licenses. The CEC argues that using this same
23 procedure for petroleum manufacturing and storage
24 will streamline the permit process and lead to
25 increased production and storage.

1 In the same way that the CEC regulates
2 power plants, the CEC proposes to become the sole
3 lead agency of all petroleum projects. In
4 contrast, the current system provides that many
5 agencies with different areas of expertise
6 participate in reviewing and permitting processes.

7 Many permits are generally required from
8 these agencies. The CEC proposes only one over-
9 riding permit. And the CEC will issue the single
10 permit.

11 Finally, CEC decisions will be
12 appealable only to the Supreme Court of
13 California. That would make legal challenges to
14 the decisions more difficult and expensive than if
15 they were reviewable by local courts, deterring
16 individuals and organizations from bringing
17 lawsuits.

18 The environmental health and justice
19 community's perspective. Petroleum refining and
20 storage requires handling of hazardous materials.
21 Thus there is a significant danger to the
22 environment and the public from spills and
23 accidents. Therefore, reviewing and assessing
24 licenses should be strictly regulated.

25 The public should be invited to

1 participate unless dangerous alternatives should
2 be analyzed. Currently the California
3 Environmental Quality Act, CEQA, assures that any
4 project with environmental consequences will
5 provide full disclosure to the public.

6 CEQA requires that a project that has
7 any potentially significant impacts, and that's in
8 quotes, on the environment must conduct an
9 environmental impact report, EIR. The EIR is
10 intended to disclose the environmental
11 consequences of the project. It requires that
12 alternative measures be analyzed that would
13 prevent or minimize the risks.

14 Public participation. Another benefit
15 under CEQA is that it provides for an extensive
16 public review process. If an EIR is prepared,
17 individuals who submit written comments within the
18 public comment period will receive a response.
19 Some lead agencies, such as the South Coast Air
20 Quality Management District, regularly hold public
21 meetings in the area where a project is located to
22 hear directly from the affected communities.

23 If the CEC is the only agency
24 responsible and the, quote-unquote, streamlines
25 the permitting process, it will make it more

1 difficult for members of the public to have
2 meaningful participation in the process.

3 For example, if the only responsible
4 agency is in Sacramento and a project is in
5 southern California, it is doubtful that the CEC,
6 whose main interest is in simplifying the process
7 for companies, will represent the community's
8 interest. The current system allows local
9 decisionmaking regarding oil refinery expansion
10 projects.

11 A diversity of agencies and local
12 involvement provides more meaningful review. For
13 any project that may have significant effects on
14 the environment, CEQA requires that a lead agency
15 be selected. The lead agency is a public agency
16 that has a principal responsibility for carrying
17 out or approving the project. The lead agency
18 researches the project and prepares an
19 environmental impact report if necessary.

20 CEQA also designates responsible
21 agencies which are public agencies other than the
22 lead agency that have discretionary authority over
23 the project. The project usually needs permits
24 from responsible agencies. When you are expanding
25 a project generally it's many permits from local,

1 state and federal authorities.

2 These may include the city the project
3 is located in, such as Carson in the case of the
4 Kinder-Morgan. The Regional Water Quality Boards
5 and the Department of Toxic Substances Control and
6 others.

7 These may be designated responsible
8 agencies and will be expected to comment on the
9 project analysis that is prepared by the lead
10 agency.

11 Each agency has its own expertise and
12 stake in the project. The Air District, for
13 example, is knowledgeable about the local air
14 quality and about what other local projects may
15 contribute cumulatively to the project in the
16 area. A city has its own municipal code and
17 general plan for zoning, nuisance and future
18 development.

19 It is easy to see that this expertise
20 will be lost if the only reviewing entity is the
21 CEC in Sacramento and there is only one necessary
22 permit. It is almost certain to overlook the
23 problems and dangers that would have been
24 illuminated in the current system.

25 Furthermore, we are concerned that in

1 the previous rounds of talks that happened
2 regarding this one-stop permitting or
3 consolidating the permit by the CEC, that the CEC
4 ignored the AQMD the first time around.

5 In a letter to the CEC, AQMD Executive
6 Director Barry Wallerstein, questioned why the CEC
7 had not informed the AQMD of its plans for one-
8 stop permitting, and also failed to invite the
9 agency to community meetings at that time. I
10 believe it was a few months ago, or a year or so
11 ago.

12 The AQMD has authority for local and
13 regional air permits and monitoring enforcement of
14 permits in the South Coast, and has extensive
15 experience at permitting petroleum refineries and
16 terminals.

17 We're concerned that CEC's attempt to
18 exclude the AQMD from the decisionmaking process
19 back then shows that there may be a conflict with
20 the communities' interests. So we're concerned
21 about that.

22 Furthermore, we feel that much as Tim
23 Grabiell mentioned earlier, from the NRDC, that if
24 the CEC were to take over this process and
25 consolidate it to folks who are appointed by the

1 Governor, in Sacramento, it would be anti-
2 democratic, simply for the fact that currently the
3 AQMD has a clear majority of nine elected
4 officials. These are people who are elected in
5 the local air basin. These are people who are
6 accountable to voters. These are people who live,
7 decisionmakers who live in the areas that are
8 going to be affected by these permits.

9 So, to have the decisions be made by
10 people who are appointed by the Governor, we're
11 not guaranteed that someone's accountable in an
12 election; we're not guaranteed that someone's
13 going to be living in the area that they make the
14 decision. So that's anti-democratic in my
15 opinion.

16 Furthermore, like I mentioned before,
17 the AQMD has experience. We've worked with the
18 AQMD on many many permits. They're here; they're
19 local; we just take a drive up to Diamond Bar,
20 although it's far, it's not as far as Sacramento.
21 We can talk to the staff in Diamond Bar and get
22 expert knowledge from the staff there, around the
23 permits, around what the process is, and we can
24 talk to staff one-on-one there.

25 I'm not sure that would be possible for

1 us just to get up and drive to Sacramento and to
2 speak with staff regarding a permit.

3 We've worked with the AQMD on a number
4 of complex issues regarding refineries. One of
5 the ways that we view CEQA, and one of the ways
6 that we've worked with the refinery and the Air
7 District has been the modification of hydrofluoric
8 acid. And that was not a lawsuit. And what ended
9 up happening is we worked with the Air District
10 and hydrofluoric acid is used in one of the
11 refineries here in Wilmington. It's a very
12 complex process that's an alkylation unit. And
13 they were the last refinery in California to use
14 that hydrofluoric acid nonmodified.

15 And for those of you who know
16 refineries, that is an extremely deadly chemical.
17 And if you can spill a gallon of that, it can
18 vaporize and it could cause harm to thousands of
19 people. Wilmington is home to 56,000 people, with
20 an elementary school, Wilmington Park Elementary
21 School, less than a mile away from that refinery.

22 So it's a very complex issue. We worked
23 with the AQMD Staff and the staff were
24 knowledgeable about it. They had experience from
25 ten years back on this particular chemical. And

1 we were able to get something outside of the
2 courts. We got a good MOU from the refinery and
3 the District. And we all worked together, and the
4 refinery agreed, this is time to phase this out.

5 Furthermore, I'd like to mention Carson.
6 I'd like to mention that when Kinder-Morgan
7 applied for an expansion of their tank farm that
8 they had in Carson, which is very near to
9 Wilmington, Carson initially rejected the permit.
10 But that wasn't the end of the story.

11 The beauty of the process was that
12 Carson actually didn't reject it, but they
13 appealed the process, delaying it. And what ended
14 up happening is because of that the City appealed
15 it; Kinder-Morgan, the City, Communities for a
16 Better Environment and other environmental groups
17 were able to work out a good neighbor agreement
18 with this Kinder-Morgan tank farm.

19 And we were able to say, hey, you guys
20 do your expansion, but, hey, do mitigation and
21 give benefits to the community. And that was
22 something that Kinder-Morgan did. And they
23 actually decided on their own to, without a
24 lawsuit, to go ahead and agree to community
25 demands to reduce their pollution of their

1 expansion, to give community benefits to replace
2 buses in Wilmington with CNG buses, and replace
3 diesel buses with CNG buses. And this is
4 something that we agreed to, and this is something
5 that's part of the current process that we would
6 lose if it was just a one-stop thing with the CEC.

7 So, you know, that's another local land
8 use lead agency, in that case happened to be the
9 City of Carson. We got the agreement and it
10 worked. And, you know, you shouldn't -- just
11 because the City had a scandal a couple of years
12 ago doesn't mean that these environmental
13 agreements cannot be worked out with the current
14 process.

15 If I'm familiar, the Governor was
16 impeached and we have a Governor now who's an
17 actor who portrayed a barbarian who slaughtered
18 people. So, I mean if you want to bring up these
19 issues, I mean the City of Carson has its problems
20 but that doesn't mean that these environmental
21 deals and these environmental agreements, good
22 neighbor agreements, can't be worked out.

23 You know, we can't just give the green
24 light and simplify everything for these
25 refineries. Pollution, currently a study by the

1 ARB said that 64,000 people every year die
2 prematurely from air pollution. And that's more
3 than the whole entire population of Wilmington.

4 So we need to start looking at alternatives
5 to fossil fuels.

6 Recent studies in "The Nation" magazine,
7 for example, cite that there could be as minimum
8 as a ten-year supply of oil left in the world at
9 the current usage. So, I mean, we need to start
10 looking for alternatives. We can't just totally
11 depend on one infrastructure.

12 Again, this is not -- currently the oil
13 industry is no airline industry. Right now the
14 airlines, the national airlines are really in a
15 bind. The government's having to bail them out,
16 they're giving them money. But the oil industry,
17 on the other hand, is in no need of this -- I mean
18 they're not starving, put it that way.

19 We're looking at the oil industry with
20 record profits. If this infrastructure that we
21 have now is really holding the Port oil industry
22 back, we should really look at the record oil
23 profits that -- I mean we're talking hundreds of
24 billions of dollars of profit that have surpassed
25 previous records. This is not an airline industry

1 where the government's having to bail them out.
2 This is a healthy industry that can stand some
3 responsibility, that can afford some
4 responsibility.

5 So, they need to be responsible. And
6 I'm going to turn it over, my comments, to Jesus
7 Torres; he's on staff with Communities for a
8 Better Environment. Then after we can answer some
9 questions if you have any.

10 MR. TORRES: Hi; my name is Jesus
11 Torres. I'm an organizer with the Communities for
12 a Better Environment. I'm also a community member
13 here in the City of Wilmington. I grew up in this
14 community. I went to school in the local colleges
15 and local schools. And so I grew up with all the
16 problems. I grew up with the pollution; I grew up
17 with the common explosion that we're having, you
18 know, every other year. That was real common to
19 me. Not knowing of the circumstances, look at the
20 smoke, bluish, coming off from these explosions.

21 So we're very concerned about the new
22 issues happening here in the City of Wilmington
23 with regards to the Port, with regards to the
24 cumulative impacts of all these different sources
25 of pollution that are in our neighborhood.

1 The AQMD is an agency that although
2 they're not perfect, they are working with us.
3 They are providing workshops and training for us.
4 I'm sure that if the CEC's the agency that's going
5 to take over that, that we will lose a lot of
6 that, we will lose a lot of that opportunity that
7 the community members have to take part.

8 In the smoke training, we attended a
9 smoke training in Diamond Bar where community
10 members got the opportunity to first-hand see, you
11 know, different types of smoke and the opacity and
12 be able to distinguish, you know, what's good for
13 them, and what's bad for them.

14 We're also partaking in the, you know,
15 working group meetings with regards to rule 1118
16 of the flaring rules which, you know, community
17 members from Wilmington, for long periods of time
18 have been concerned about the flaring here in
19 Wilmington. And so now we're able to take part in
20 a lot of those meetings and those hearings. And I
21 feel that, you know, part of that will be lost if
22 the communities will be no longer the lead agency
23 in that.

24 So that's a big concern that we have
25 here in Wilmington, where -- although Diamond Bar

1 is not really close. I mean we have to drive
2 quite a ways. It's much closer than Sacramento,
3 you know. At least we have somebody close by we
4 can hold accountable to a lot of the things that
5 are happening out here.

6 And so that's pretty much it for my
7 comments. I'd be more than happy to answer any of
8 your comments.

9 PRESIDING MEMBER GEESMAN: Have either
10 one of you been involved in the power plant siting
11 process? Or are you familiar with the vital role
12 that the AQMD plays in the power plant siting
13 process?

14 MR. EICHWALD: Yes. CBE was actually
15 involved in the power plant process when it came
16 to a power plant that was sited in Southgate. I
17 believe it was the Sunlaw Corporation was trying
18 to open a power plant in Southgate. And we
19 actively opposed that because of the environmental
20 justice concerns. The overwhelming number of
21 people of color in the area, the vulnerable low
22 income community.

23 And we actually found that the CEC
24 process with regard to that power plant was very
25 cumbersome; it was a very hard process to follow.

1 And we also researched a little bit of the history
2 of the CEC and we found that very little, if any,
3 times that the CEC actually would reject a permit
4 to a power plant, or reject giving a permit to a
5 power plant. So we were concerned about that at
6 the time.

7 The AQMD did --

8 PRESIDING MEMBER GEESMAN: You blocked
9 that project, though. You were successful in --

10 MR. EICHWALD: We were successful --

11 PRESIDING MEMBER GEESMAN: -- making the
12 project go away.

13 MR. EICHWALD: -- in blocking the
14 project through a ballot measure at the actual
15 City, itself. But we were very concerned that if
16 we did not get the ballot measure that the CEC
17 would approve the project, given their record. So
18 we were concerned about that.

19 We're concerned about the record of the
20 CEC with regard to power plants from our previous
21 experience with the Southgate. And from what our
22 understanding is of the history that there's not
23 too many power plants that are -- permits that are
24 rejected.

25 PRESIDING MEMBER GEESMAN: I was

1 specifically interested, though, if you were
2 familiar with the role that the AQMD plays in that
3 power plant siting process?

4 MR. EICHWALD: We are aware that, yes,
5 the AQMD does play a role. They do submit
6 comments, and they do, I believe, have their
7 comments submitted to the CEC and their
8 recommendations looked at by the CEC.

9 PRESIDING MEMBER GEESMAN: They do a lot
10 more than that. I mean, they develop a
11 determination of compliance with all of the air
12 quality requirements. There's significantly more
13 than just submitting comments.

14 MR. EICHWALD: Right, right. So, yes,
15 the AQMD would do that. And that's why we're
16 comfortable having them as the lead agency because
17 they do have that experience and they have worked
18 with you guys in terms of the power plants.

19 PRESIDING MEMBER GEESMAN: And are you
20 familiar with any power plant siting case where
21 the AQMD has been overruled by the CEC?

22 MR. EICHWALD: I'm not familiar offhand.
23 I mean I can maybe research that and get back to
24 you guys.

25 PRESIDING MEMBER GEESMAN: Would you

1 believe me if I said never?

2 MR. EICHWALD: That that never happened,
3 that you guys never --

4 PRESIDING MEMBER GEESMAN: Never
5 overruled the AQMD in a power plant siting case.

6 MR. EICHWALD: Well, then that would
7 show that the AQMD is a very knowledgeable
8 district, and that they deserve to be the lead
9 agency.

10 So, I mean I -- not to say that the AQMD
11 is perfect. I know that we have had a number of
12 times when the AQMD and ourselves are on the
13 opposite side of issues. And, you know, we've
14 criticized them and, you know, in the past and
15 we'll probably continue to criticize them. But,
16 you know, we feel that for our communities they're
17 the best answer in terms of the lead agency right
18 now, because they're in the local air basin.

19 PRESIDING MEMBER GEESMAN: Thanks very
20 much.

21 MR. EICHWALD: Thank you.

22 PRESIDING MEMBER GEESMAN: Okay, our
23 last presentation today comes from Western States
24 Petroleum Association.

25 MR. SPARANO: Good morning,

1 Commissioners, Advisors, members of the public and
2 the community. First of all, I want to thank the
3 members of the Energy Commission for being here,
4 for conducting a public meeting to try and address
5 a very serious and important issue; and the
6 members of the community for sharing their
7 concerns, their interests, their suggestions.

8 I think the only way this process will
9 work is if all that happens and continues to
10 happen.

11 Western States Petroleum Association,
12 and by the way, my name is Joe Sparano, -- the
13 Western States Petroleum Association is a group
14 that represents and advocates for 26 petroleum
15 companies that explore for, produce, refine,
16 transport and market petroleum and petroleum
17 products throughout six western states, including
18 California. Our members also produce a
19 significant amount of natural gas.

20 Next slide, please, Gordon. The slide
21 asks what are we here for. And I'm not going to
22 talk about each bullet on each slide, because I
23 don't want to put you all asleep. But I would
24 like to point out a few highlights and make a few
25 comments that are not included on the slides.

1 The main role here for me is to share
2 the petroleum industry's perspective. We've heard
3 a number of comments about the industry from
4 members of it and from the community outside of
5 it. And we have some perspectives we'd like to
6 share on this important issue.

7 We're here to look at the
8 infrastructure. And one of the reasons
9 infrastructure is an issue is because it is
10 limited. There are constraints on importing,
11 refining, storage and all of those constraints
12 essentially leave us in a position where the
13 demand for the products that all of us use every
14 day is far exceeding the supply and our ability to
15 both produce it and bring it in.

16 Infrastructure is a critical piece of
17 that. We'd like to determine how we can improve
18 the permit process. And increasing the state's
19 supply of clean transportation fuels is what this
20 is all about in terms of the supply side issues
21 related to infrastructure. That is not meant to
22 mean that we are not interested in the emission
23 control and cleanliness and community involvement
24 side. Quite the contrary. I want to make sure
25 that's said, and hopefully understood right at the

1 outset.

2 We do think, though, that the system has
3 some flaws. We believe that there are issues that
4 need to be addressed.

5 Some things we're not here for. We want
6 to make this really clear, and I think there has,
7 because this is such a complicated and important
8 subject to people, I want to eliminate confusion
9 about our role.

10 We're not here to usurp the authority of
11 local government or regulatory agencies. We would
12 like to work cooperatively. It is in our
13 interest, as companies that invest money in this
14 state, to have the ability to do so; not an issue
15 of not wanting to spend more, rather an issue of
16 having a streamlined method to get some certainty
17 into the process.

18 One of the prior speakers used the term,
19 we fear the unknown. I thought that was a very
20 important comment. Any investor does. And so
21 here we have a process that is lengthy by its very
22 nature. And our hope is to contribute to ways to
23 streamline it.

24 We're not here to weaken CEQA. That is
25 worth repeating. Our objective is not to weaken

1 CEQA, or to weaken any local lead agency's role.
2 That's not the process; that's not what we're
3 interested in. But we do want to help design
4 program and permitting improvements.

5 And lastly, we are definitely not here
6 to create backsliding on environmental protection.
7 Our industry has contributed over the year with
8 both human and financial resources to help clean
9 up this air basin. We may disagree on how much
10 has been done and whether it has been enough, and
11 how much more needs to be done. It is factual,
12 though, that the industry has contributed a great
13 deal, both from the hearts of its people as well
14 as the pockets.

15 We want a balanced energy policy. I
16 think if I can share a word with the audience that
17 I think is the most important one from my
18 perspective, it's balance. If we have only
19 investment without any input from the community or
20 control or emissions standards, we will have an
21 unpleasant environment. We don't have that; we
22 have made vast improvements there.

23 If we have strictures and controls in
24 the system that are such that no one can ever
25 build a project, then we have a difficulty because

1 we quickly run out of supply. The state has 36
2 million people; we drive 23 million cars. This
3 Energy Commission that sits before you has
4 estimated, I think, 50 million people by 2020. If
5 I do the ratio right, that's something like 33
6 million cars. Demand is outstripping supply by
7 two or three to one, demand growth. So it's a
8 really important issue and balance here is
9 crucial.

10 We not interested in reducing demand,
11 but rather expanding supply. We already make the
12 cleanest fuels on the planet and each year,
13 through federal and state regulations, those fuels
14 get cleaner and cleaner. Again, I don't want a
15 dispute with those of you who feel it's not yet
16 clean enough, but rather we're making every effort
17 to continue on that path toward cleaner and
18 cleaner fuels.

19 We --

20 PRESIDING MEMBER GEESMAN: Joe, let me
21 jump in and say I think the population number that
22 we're now going on is Department of Finance
23 projection of 48 million in 2030.

24 MR. SPARANO: Okay, and I appreciate the
25 correction.

1 PRESIDING MEMBER GEESMAN: I think your
2 point's the same, but --

3 MR. SPARANO: The point is the same. We
4 do want to bring more supplies to market. And
5 those supplies are not just petroleum. We have
6 focused a great deal today on petroleum, the
7 liquid crude oil and gasoline and diesel products
8 that we're all so familiar with. But the
9 infrastructure of the state is an energy
10 infrastructure, and there's an issue with natural
11 gas and natural gas pipelines. There's an issue
12 with LNG and whether or not it's appropriate and
13 prudent and cost effective to bring it in to
14 augment natural gas, which is the fuel targeted
15 for power plants.

16 If we want electricity, a way to get
17 there is more natural gas. Currently producers in
18 California produce 16 percent of all the gas used.
19 We're at the end of a pipeline, figuratively,
20 because there are more than one, but we're at the
21 end of a pipeline to get natural gas in here. And
22 we, as a state, from a public policy standpoint
23 have said that's our fuel of the future. We will
24 create energy from natural gas.

25 So, it goes beyond petroleum. And, in

1 addition, our members are very well attuned to the
2 value of alternative fuels. They're making
3 significant investments in hydrogen fuel cells, in
4 gas to liquids, some of the biotechnology.
5 There's a great deal of activity going on by
6 companies who realize that, while I disagree with
7 the prior speaker's timeline on the end of oil, I
8 think it's much much further out than that, but
9 the answer is fair and one we'd agree on, it's not
10 a renewable fuel.

11 And so, as a society, we need to look
12 forward to those times and we're supportive of
13 development of renewable fuels as long as it's not
14 mandated and not subsidized.

15 COMMISSIONER BOYD: Joe, before you
16 leave that, sorry about the microphone -- before
17 you leave that slide, your second bullet point is
18 you don't support efforts to reduce demand. And
19 while I recognize we've not seen eye to eye on --

20 (Technical difficulties.)

21 MR. SPARANO: If you were trying to fry
22 what little brain I have left, you've succeeded.

23 (Laughter.)

24 COMMISSIONER BOYD: I'll try to speak
25 loudly; the court reporter will get her microphone

1 here.

2 I know you don't support our efforts to
3 actually reduce our dependence on petroleum by
4 reducing the amount of petroleum we use, but I
5 just want to catch you here on -- I'm of the
6 impression that when we talk about improving
7 vehicle efficiency with things like fuel economy
8 and CAFE, that you don't oppose that, as well.

9 MR. SPARANO: We have not opposed that
10 as an industry.

11 COMMISSIONER BOYD: Because that has an
12 effect on, in effect, reducing demand, but --

13 MR. SPARANO: Commissioner, --

14 COMMISSIONER BOYD: -- you have not
15 changed your position there --

16 MR. SPARANO: -- we have no changed the
17 position. And we both know that that is one of
18 the ways to get at reduction in demand.

19 We also, I think, both know that as the
20 CAFE standards have improved, miles driven have
21 gone up because the cost per mile driven has gone
22 way down. So, I'm not sure it's a direct route;
23 although my answer to the question is still the
24 same, we do not oppose that. Is that -- are we
25 okay on that?

1 COMMISSIONER BOYD: Thank you.

2 MR. SPARANO: What does it mean if we
3 have a petroleum infrastructure emergency. Take
4 you back to my earlier comments. Supply is a real
5 important issue. My statement there is one that
6 all of you are aware of, Californians pay higher
7 price than the national average for gasoline and
8 diesel.

9 There are reasons; they're identifiable.
10 In some cases they're quantifiable. Our taxes are
11 higher. We have such terrifically clean fuel
12 specifications that there are not a lot of people
13 around the world and in this country who have
14 invested money in their refineries to be able to
15 make the fuels that we have demanded as a society.

16 It's a public policy choice. I think,
17 personally, it's a great one. But there are
18 consequences to any public policy choice, and one
19 of them is that we are at a disadvantage trying to
20 bring in supplies readily if there is a disruption
21 in the supply system. We don't have adequate
22 capacity to meet demand. And I'll get to that, I
23 think, in two slides. But it's a pretty important
24 point, that there needs to be better balance
25 there, as well.

1 We talked about increases in demand. I
2 think the Energy Commission and, Commissioners,
3 correct me again if I'm off a little here, I think
4 the Commission has turned back its estimates, but
5 still estimates anywhere from 1.6 to 2.5 percent
6 per year growth in demand for gasoline. That's a
7 pretty significant growth, and we probably beat
8 that in '03. I'm not sure what the '04 figures
9 are yet final. But Californians drive a lot. And
10 that demand is going to continue regardless of
11 what the public policy is on trying to force
12 reductions in demand because we don't yet have
13 another system, including mass transit, to replace
14 it.

15 So those are factors that contribute to
16 our petroleum demand and supply, and
17 infrastructure happens to be a key. If we have
18 infrastructure constraints we will not be able to
19 bring in the supplies, the imports that currently
20 augment our production.

21 Right now California produces about 45
22 or 46 million gallons a day of gasoline.
23 California uses about 45 or 46 million gallons a
24 day. We also are the suppliers to Arizona, 70
25 percent of theirs; 100 percent of Nevada's; and 33

1 percent of Oregon's gasoline. That has to come
2 from somewhere. We're a net importer. We don't
3 just import and balance. I think now we're
4 actually a slight net importer of gasoline into
5 the state. And arguably I'll just say we're in
6 balance, but there's a terrific importance
7 attached to making sure that we have an
8 infrastructure of ports and lines and terminals
9 and refineries and distribution systems that will
10 accommodate the growth in demand that is expected
11 and, in fact, forecasted here.

12 And I think there's been a clear
13 recognition by a number of pretty reputable folks
14 that there needs to be permit streamlining and
15 energy infrastructure upgrades. And they do go
16 hand in hand. And by those folks, I mean the
17 Energy Commission's own IEPR, the Integrated
18 Energy Policy Report, and the report of your
19 consultant on this issue. As well as the
20 Governor's California Performance Review,
21 resolution 14, clearly speaks to the issue of
22 streamlining the permit system, not for the
23 purpose of backsliding, not for the purpose of
24 taking control out of local communities. For the
25 purpose of bringing more supply in more readily

1 and more cost effectively.

2 Where's our industry at? We talked a
3 little bit about this, so I'll go quickly through
4 here, but we have had a tremendous reduction in
5 the number of refineries in this country. And
6 I'll address that with the next slide.

7 We don't have a pipeline that runs into
8 California from somewhere else. We can't bring in
9 gasoline. So our own infrastructure is critical.

10 We have a vast ocean between places that
11 produce gasoline and diesel and jet fuel and where
12 we sit. That's a problem. And our product specs,
13 fortunately, are cleaner.

14 But the petroleum infrastructure
15 inadequacy extends beyond just petroleum
16 refineries which we have focused in many places on
17 today.

18 Here's the chart, which I wish wasn't a
19 build chart. I apologize for that, I didn't
20 realize it would come up this way, but please bear
21 with the -- animation action.

22 The chart can be described real simply.
23 If you look in the upper left-hand corner you'll
24 see that gasoline production, and therefore supply
25 and refinery capacity in California was close to

1 21 billion gallons a year in 1980 when there were
2 34 refineries.

3 If you look oat the right side of the
4 chart, there are 13 refineries left in 2005. The
5 amount of demand for product has been increasing
6 at a yearly rate of 1 to 3 percent or more. The
7 amount of supply, and the green line shows the
8 supply of reformulated fuel only, not all
9 gasoline, you can see that there is a gap. The
10 demand in 2005 is about equal to the production,
11 16, 17 billion gallons a year. The demand in 1991
12 when we had 21 or -- excuse me, we had about 19
13 billion gallons of capacity we only had demand for
14 13.5 billion gallons. So that whole structure has
15 switched, again pointing toward the need to insure
16 that our entire infrastructure is capable of
17 handling the changes we're going to have to
18 undertake.

19 Why should anybody care? Well,
20 California uses a lot of petroleum. California
21 uses a lot of other energy products. And I won't
22 bore you; you can read them on the screen. We
23 have a lot of choices, market locations where you
24 can acquire your gasoline. There's a vast network
25 of pipelines for both natural gas and petroleum

1 and crude products.

2 We have terminals, many of them here,
3 nearby this community in which we sit. The
4 government -- and I'm not pointing at any segment
5 of government, just government in general, needs
6 to insure that there is adequate and affordable
7 transportation fuel and other energy supplies for
8 the state. That is what fuels our economy. It
9 doesn't just fuel this broad, perhaps nebulous
10 state economy, it fuels local communities. If you
11 have manufacturing in your community, there are
12 jobs that accrue from that. There are benefits
13 that come from those jobs.

14 I believe some of our members have
15 community advisory panels where there are
16 opportunities for the community to learn the
17 business better and to share their experiences and
18 interests. All that is good. We really do care
19 about building those relationships. And it has
20 been years and years where those efforts have been
21 undertaken. And to be fair, more work needs to be
22 done.

23 Some of the facts about our industry.
24 Again, you can read them. We've put an awful lot
25 of money into making clean fuels, 5 billion in the

1 early '90s, almost another billion to react to the
2 state's ban on MTBE, which required us to be able
3 to blend ethanol into gasoline, \$800 million of
4 investment. New infrastructure for ethanol, since
5 you can't ship ethanol from a refinery blended
6 already in gasoline. It is blended separately at
7 terminals, at needed facilities.

8 There's been a benefit that's accrued
9 from that wonderful change in fuel quality, and
10 we're reducing emissions a billion pounds a year
11 since CARB-2 started in 1996. That takes 3.5
12 million cars a year off the road equivalent.

13 Clean diesel buses. I know there have
14 been observations about CNG buses, and they are,
15 in fact, clean. Diesel, by 2007, by law will burn
16 cleaner than CNG. We've made a significant effort
17 on the fuel side of that, as have the engine
18 manufacturers for diesel buses and other heavy
19 duty equipment.

20 You can see there that refiners, in
21 fact, have reduced emissions consistently with
22 numbers from our regulatory agencies.

23 And finally, safety, which is an issue
24 of paramount importance, both inside the refinery
25 and outside in the community. The industry, by

1 statistic, which may not completely match your
2 anecdotal evidence as you live in the community,
3 but by statistic it's probably the safest industry
4 in the state, certainly safer than employment in
5 other public/private industries and government
6 agencies.

7 PRESIDING MEMBER GEESMAN: Could you
8 supply us with any data that you have that better
9 illustrates that point?

10 MR. SPARANO: The last one?

11 PRESIDING MEMBER GEESMAN: Yeah, I think
12 it would be --

13 MR. SPARANO: Yeah, the petroleum
14 industry, according to the Bureau of Labor
15 Statistics, has 1.2 injuries per hundred workers.
16 The oil industry averages 5.9. Government and
17 other public agencies is 6.2. And I'm happy to
18 supply you that actual data.

19 PRESIDING MEMBER GEESMAN: Those are
20 national numbers you're speaking of?

21 MR. SPARANO: Those are national
22 numbers, yeah. And it's very difficult to carve -
23 - no, excuse me, that was a California labor
24 statistic. Those are California numbers. And, in
25 fact, the Bay Area has some even more narrowly

1 drawn numbers about performance of their
2 operations. And they're similar, they're similar
3 in difference.

4 PRESIDING MEMBER GEESMAN: If you would
5 send us something in writing --

6 MR. SPARANO: Absolutely.

7 PRESIDING MEMBER GEESMAN: -- to that
8 effect, it would be very helpful.

9 MR. SPARANO: Now, all of this
10 background that I've been going through leads up
11 to a point. The point is we feel that there needs
12 to be a change in existing permitting practices.
13 And the reasons are up there, and I've gone over
14 them.

15 This is not against CEQA. CEQA is a
16 good law. The way in which it is sometimes
17 managed and implemented leaves room for
18 improvement in that, and you've heard it from
19 other people before I sat here, the permits are
20 complex; the issues are complex. There is
21 multiplicity among agencies that are involved,
22 even when there is a lead agency. There are
23 technical issues amongst the analysts who work for
24 the lead agencies and the cities and other venues
25 that have input.

1 It is not a simple process. And no one
2 permitting issue is the cause of the problems.
3 But there are problems.

4 Before we get to the problems, some very
5 good things have happened. Clean gasoline, those
6 projects that refiners needed to install to meet
7 CARB gasoline and diesel requirements in '96 and
8 '93 respectively. And again in subsequent years.
9 Those permits were granted. The reason that there
10 are 13 refineries today as opposed to 34 and 80
11 is, in part, to do with the frustration and
12 inability and lack of financial wherewithal of
13 some companies to work within that process to
14 build the facilities required. They went out of
15 business because they couldn't meet all the needs.

16 Air Districts have accelerated permit
17 process and priority permit processing options.
18 They're good things. In the Bay Area we've had a
19 lot of interaction with the agency there
20 responsible, and where our permitting has taken up
21 to nine months for a maintenance permit to clean
22 up the dock area where feedstock materials are
23 received, we're now getting a great deal of
24 cooperation to trim down that timeline.

25 What do we think could be improved? The

1 timelines, from experience, are long. The data
2 requirements, particularly when there are multiple
3 agencies involved, are often voluminous and even
4 duplicative. The mitigation requests, and I'm
5 sure we can reach easy disagreement on whether
6 they are inordinate or not, but from the
7 perspective which I said I would try to deliver to
8 you of the petroleum industry, we feel like the
9 mitigation measures in many cases are not cost
10 effective, don't even match the state standard for
11 cost effectiveness.

12 And finally, the permit conditions that
13 are built in. Some of them are really good, and
14 are needed, and are implemented. We simply
15 disagree that the extent to which permit
16 conditions are applied is completely necessary.
17 That is a fair disagreement among reasonable
18 people. But we think the current system has not
19 lent itself well to eliminate that as a problem.

20 Just a -- I'm just going to describe
21 this and leave it alone. I tried to list for you
22 some of the facilities that comprise parts of the
23 energy industry, what issues we have dealt with on
24 real permits, and because we are an industry very
25 carefully and tightly controlled from an antitrust

1 standpoint, I don't know which particular plants
2 were identified. I can't know. I don't want to
3 know.

4 But these are data collected from
5 individual project proponents. They've been de-
6 identified and aggregated, and we have tried to
7 summarize where the issues have fallen and the
8 category where the permit, as Commissioner Geesman
9 said several times before, land use. It's not
10 just CEQA; land use is an issue for any project
11 proponent, and probably the larger the project the
12 more significant the land use issue becomes.

13 I've got two slides here that I
14 affectionately call my laundry list of examples.
15 These are just -- and this is mainly for the
16 Commissioners to reflect on when you have time to
17 sit back with all the information that's been
18 shared with you today.

19 It's just a listing of so many things
20 that we have encountered as an industry that we
21 feel can be improved, and that have caused real
22 project delays. And, in fact, I have a whole
23 package that I would also be willing to share with
24 you, in addition to the safety data, that has de-
25 identified, but very specific, examples of lots of

1 those. And that's why I won't belabor what's
2 there on this slide. And, Gordon, please, the
3 next one.

4 It's a system with flaws. I think the
5 good news is if we work together, don't remove
6 local input and local responsibility from either
7 local air agencies, or communities, we will have a
8 better chance. But the system, as it stands, does
9 not lend itself to do the job that needs to be
10 done into the future in the context of making sure
11 we have the facilities available to have our
12 supply meet the demand.

13 This is again a list just of examples,
14 the range of projects where we have encountered
15 enormous difficulty in terms of months to years
16 waiting for permits to be granted. And they run,
17 I guess, from something that looks relatively
18 simplistic, brine treatment, to an entire gasoline
19 reformulation refinery modernization, which many
20 of our members went through in the early '90s and
21 again in the last couple of years.

22 We are making clean diesel. We have to
23 get permits if we want to put ultra low sulfur
24 diesel out on the market; that's absolutely
25 mandatory.

1 And one of the issues that comes up that
2 I just want to share with you for your
3 consideration, not for argument, when projects are
4 delayed inordinately, particularly those that have
5 mitigation measures attached to them, where the
6 net emissions go down. We will wait for better
7 air in those cases. That is a fact of life. I
8 don't like it. And I think we can improve it.
9 And what I'm here for is not to attribute blame to
10 anyone, but rather to say that there's a real wide
11 open playing field for us to fix this.

12 And here's what we think what might be
13 some potential solutions. Best permitting
14 practices, I think, are just absolutely necessary
15 where local and state permitting agencies have
16 consistent policies and practices, but we don't
17 have overlap and disagreement and multiplicity of
18 requests when we could adhere to best permitting
19 practices and remove some of those current problem
20 areas from the permit process.

21 We think that projects that increase
22 reliability and efficiency, and therefore chances
23 of getting supply to market should be expedited.
24 I'm not recommending the expediting process. I'm
25 not here to do that. But I think that's an area

1 we need to focus on.

2 We need to focus any project that
3 reduces emissions should be expedited, period.
4 We're not about environmental backsliding. We do
5 feel the community has an important purpose. We
6 don't always agree. Again, reasonable individuals
7 have disagreements. But one of the folks
8 mentioned that there was a process that his group
9 undertook with one of the project proponents and
10 investors and they came to a good solution.
11 That's great. It shows it can happen.

12 I think more dialogue is necessary
13 across the spectrum of stakeholders and government
14 and communities. We need to remove the
15 bottlenecks. What we will face if we don't is a
16 society that demands far more transportation and
17 other energy than it is able to bring to market.
18 And I will tell you that means price volatility.
19 None of us likes it; we've all had a taste of it
20 in the last four or five years periodically. That
21 is not the way to success for the companies or for
22 the society. It's not.

23 And there are ways to reduce that. And
24 one of them is to improve the infrastructure to
25 allow supply to flow more freely.

1 A lot of details we need to work at. We
2 don't want to have a state level duplicate the
3 local level, but it's my impression, and,
4 Commissioners, please correct me if I'm wrong, if
5 there was a state level agency, as I think you
6 have advocated, for permitting, then that agency
7 would, in effect, be the lead agency. And in my
8 view, would handle all of the other constituencies
9 in no different way. You'd be obligated to take
10 their input, to review it, to consider it, to make
11 the best of it, and to create mitigation measures
12 that reflected the input of the community. Is
13 that a fair statement?

14 PRESIDING MEMBER GEESMAN: Yeah, and if
15 you used the electricity power plant template as
16 a model, we have a requirement to determine
17 compliance with laws, ordinances, regulations and
18 standards adopted by local agencies and other
19 state and regional agencies.

20 And make a finding of that conformance.
21 If, in fact, we cannot establish that those laws,
22 ordinances, regulations and standards have been
23 complied with, we do have a statutory authority to
24 override them if we make a finding of public
25 convenience and necessity.

1 In 30 years I think the number of
2 instances where we have made an override of a
3 local jurisdiction is -- I'm not certain if it's
4 three or four. And in two of those instances, it
5 was at the request of the local agency, said, you
6 know, our requirement -- in these instances they
7 were zoning categories -- our zoning is out of
8 date; it would just be a lot easier if you
9 overrode rather than us going back and changing
10 our general plan.

11 So the instance of the Energy Commission
12 finding the public convenience and necessity
13 required the override of a local standard has been
14 extremely rare. The one instance that -- I can
15 actually think of two specific instances where
16 there was a conflict.

17 One was with respect to the Geysers
18 public power transmission line that went through,
19 I believe it was Solano County, and conflicted
20 with a local land use requirement. The other was
21 with regard to the Metcalf Power Plant in the City
22 of San Jose, which the City initially opposed. It
23 had plans to develop a campus for the Cisco
24 Corporation, and Cisco did not like the idea of a
25 power plant being sited nearby. But ultimately,

1 after the Commission had chosen to override that
2 requirement, the City later changed its mind and
3 decided that it would remove its opposition.

4 So the record, at least using the power
5 plant siting process as a template, is that the
6 Commission's statewide process has really been
7 used to apply and enforce locally developed
8 standards.

9 Now, I think where we may part company
10 with your members and where, frankly, I think your
11 membership would consider state regulation
12 burdensome and intrusive, is we represent an
13 elected government, the fifth largest political
14 jurisdiction in the world. Your members, in many
15 instances, are the largest corporations and most
16 powerful corporations in the world.

17 I won't claim that we are evenly matched
18 in leverage. I'm not naive about that. But I
19 would submit to you that we have substantially
20 greater leverage, substantially more
21 aggressiveness than the small local agencies that
22 your members currently confront in the licensing
23 process.

24 And so I would suspect that over time,
25 as community advocate groups such as we've heard

1 from today, become a little bit more focused on
2 this question of leverage and who best speaks for
3 the impacted neighborhoods and communities which
4 your industry affects, I would expect that they
5 will choose to go with those with the larger
6 influence, the more demonstrable aggressiveness,
7 the fewer officials convicted of criminal
8 corruption.

9 And I would anticipate that will cause
10 some friction among your members. I don't expect
11 your membership will prove as statesman like or
12 diplomatic as you often do when you appear before
13 us.

14 MR. SPARANO: Well, that might suggest
15 that I'm putting on an act on behalf of the
16 members and nothing could be further from the
17 truth. I actually believe in what I'm speaking
18 and I think there has to be a balance. You spoke
19 of another edge; one edge is to keep things local
20 and only do things local. The other end of that
21 spectrum is to do it all on a statewide basis.

22 What I've said here is to balance. And
23 I'll get into my view of what the CEC's role
24 should be, which is our industry's view.

25 And I don't know how to predict the

1 future, Commissioner. I don't know how it's going
2 to turn out. What I do know is that if we
3 continue to increase demand by 2 and 3 percent a
4 year, and production by 1.5 percent a year, and
5 there are 50 million people in this state by 2030,
6 then we have a problem, a very big problem for all
7 of us. We'll all share it.

8 The second page of potential solutions.
9 And for both of these pages I want to state for
10 the record that the members are willing to stand
11 behind what we've said. If we've said we'll
12 participate in the survey, we'll do it. If we
13 said we will lend our resources with the community
14 to look at issues, we'll do it.

15 This is a very significant situation for
16 us, as a set of companies that are invested in,
17 but also looked to to provide energy every day
18 affordably.

19 The issue is not the rules. I said that
20 before, but I think it's worth repeating. It's
21 the way in which they're applied. Your own
22 consultant, in 2003, put together what I think is
23 the best I've seen on infrastructure and
24 permitting, the best report. And maybe you ought
25 to dust it off and share it with some folks that

1 haven't seen it already.

2 Again, the last two comments, balance,
3 balance, balance. Whether it's balance between
4 who gets to rule on which permit, or balance
5 between creating better and better environmental
6 conditions and still having enough fuel to meet
7 our needs. It's all balance.

8 We think there are opportunities in
9 those areas that are listed here. They are very
10 straightforward. I don't think there's anything
11 hidden behind them. Ministerial permits, I think
12 they could be handled a lot more easily.
13 Shouldn't take eight or nine months for something
14 that is simply a replacement in kind in a plant.
15 It shouldn't. That is burdensome to everybody and
16 in most cases, those replacements use better and
17 better technology. And we end up defaulting to
18 having a less clean situation than we'll have when
19 the piece of equipment gets installed. That's not
20 generalized to everything, but I think it's
21 directionally correct.

22 I said I would share with you what we
23 think of the CEC's role. We have a view. It's
24 our input to you. I think you are the ones that
25 clearly must articulate the need and must

1 articulate it clearly for energy infrastructure to
2 balance environmental concerns and needs.

3 If I'm not mistaken, you are charged
4 with insuring that the citizens of this state,
5 every day, have an adequate and affordable supply
6 of energy. A primary role.

7 We think you ought to really emphasize
8 that there is more than one piece to that. It's
9 both supply and energy; it's environmental. And I
10 think you've done a heck of a job bringing that
11 up, quite frankly, in the IEPR work that you've
12 done.

13 I think what you're doing here is an
14 indicator of the second bullet, proactively
15 engaging in regulatory and policy debates. But I
16 think in this case, I've qualified it a bit, in
17 particular when there are supply/capacity issues
18 at work. It is, I think, imperative to have the
19 Energy Commission's interaction in the process.

20 And that leads to the third bullet,
21 which is a very specific suggestion. I think we
22 could do with a state-level facilitator. That
23 facilitator would be specific to energy, not just
24 petroleum, but energy infrastructure projects that
25 are all about meeting California's rising energy

1 demand.

2 Best permitting practices would fit in
3 here and would be a function of that person's
4 responsibility to insure that they are developed
5 and adhered to. That person would probably not
6 have the right to force, but rather the ability to
7 encourage local agencies to adopt and embrace these
8 practices.

9 And finally, if, as there almost always
10 are, if there are periods where there is
11 difficulty moving the project along, you end up
12 with two choices. It gets moved along and
13 completed, or it gets dropped. And every investor
14 has the opportunity to pursue either. I'm simply
15 suggesting a way to get us to the let-it-go-
16 through in a speedier manner.

17 Finally, we are strong advocates of the
18 streamlined permitting process. Not a backsliding
19 one, a streamlined one. We want to be able to
20 fund economically attractive projects. We want to
21 do that more efficiently and less uncertainly.

22 Again, I love the comment made earlier,
23 we really fear the unknown. And whether you're a
24 large corporation or a small business, if you want
25 to make an investment you want to be able to

1 assure those folks who are shareholders in your
2 business that there's a chance what you propose
3 will ever get implemented.

4 We want to maximize production rates. I
5 don't say that with apology or with arrogance or
6 anything. We need to create more production in
7 this state to meet our energy needs. We'll do it
8 safely. That's our objective. The statistics
9 I'll share with you, as you requested, will
10 reinforce that.

11 We have to maintain adequate supply or
12 it's a very slippery slope downhill with the way
13 our demand is going.

14 And finally, when that happens, you
15 clearly reduce the potential for supply-induced
16 price spikes. And none of this happens without
17 maintaining environmental protection. That is not
18 only my position, but the position of the
19 membership.

20 And I thank you not only for listening
21 to me, but also for taking your time to be here.
22 Again, it's a difficult issue and the fact that
23 you're here in the community is a telling sign of
24 your interest.

25 PRESIDING MEMBER GEESMAN: Thank you for

1 your comments, Mr. Sparano.

2 MR. SPARANO: Thank you.

3 PRESIDING MEMBER GEESMAN: Are there any
4 other public or members of the public who care to
5 address us?

6 MR. WRIGHT: I'd like to just clarify a
7 statement I made.

8 PRESIDING MEMBER GEESMAN: Sure, come on
9 up.

10 MR. WRIGHT: David Wright with Pacific
11 Energy. And I think, as a result of a comment
12 that Skip Baldwin made about the neighborhood
13 councils, it's my personal opinion and our
14 company's position the neighborhood councils are a
15 very valuable and important part of the public.
16 I misstated how I felt they impacted the process.

17 We intend to work directly with all the
18 neighborhood councils. We value their input. We
19 think they're extremely important. And we look at
20 them as an important facet of any project that's
21 going to be undertaken.

22 Thank you.

23 PRESIDING MEMBER GEESMAN: Thank you for
24 that clarification.

25 Anyone else who would care to address

1 us?

2 Okay, before our microphones blow up
3 then, I'm going to call this adjourned. I want to
4 thank everybody for your attendance and
5 participation today.

6 (Whereupon, at 1:15 p.m., the Committee
7 Workshop was adjourned.)

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CERTIFICATE OF REPORTER

I, CYNTHIA MIZELL, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Committee Workshop; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said workshop, nor in any way interested in outcome of said workshop.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of February, 2005.

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